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**An Analysis of Consecutive Child Sexual Abuse
Investigations and Prosecutions by the
Christchurch Police Child Abuse Unit**

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TABLE OF CONTENTS

	Page
LIST OF TABLES.....	3
LIST OF FIGURES	5
ACKNOWLEDGEMENTS	6
ABSTRACT	7
CHAPTER ONE: INTRODUCTION	8
Rationale for Present Study.....	9
CHAPTER TWO: LITERATURE REVIEW.....	11
Part One: Research Issues.....	11
Part Two: Prevalence.....	15
Part Three: Characteristics of Offenders and Victims.....	18
Part Four: The Prosecution of Child Sexual Abuse Offences.....	23
Aim of the Present Investigation....	33
CHAPTER THREE: METHOD	35
CHAPTER FOUR: RESULTS	41
CHAPTER FIVE: DISCUSSION.....	66
REFERENCES	76
APPENDIX 1: Crimes Amendment Act 2005	81
APPENDIX 2: Police Child Abuse Statistics Project Report Form	87

LIST OF TABLES

TABLE	Page
1. Sexual Abuse Prevalence Rates	16
2. Crimes Act 1961: Offences Relating to Sexual Assaults on Children	27
3. Distribution of Cases Reported to the Christchurch Police Child Abuse Unit between 1 st January and 28 th July 2004	42
4. Characteristics of the Children in Sample 1.....	43
5. Characteristics of the Alleged Offenders	44
6. Whether the Accused has a Previous Criminal History?	45
7. Types of Non-Sexual Previous Offences	45
8. Relationship between Victim and Alleged Offender.....	46
9. First Person the Victim Disclosed To	47
10. Was the Child's Disclosure Believed by their Primary Caregiver?	48
11. Number of Incidents Reported by the Victim/Family.....	49
12. Duration of Alleged Offending	49
13. Types of Offences Alleged by the Victim	50
14. Number of Alleged Offenders Admitting to Child Sexual Abuse Charges	50
15. Characteristics of Children in Prosecuted and Not-Prosecuted Cases	51
16. Characteristics of the Accused in the Prosecuted and Not-Prosecuted Cases	52
17. Relationship Between Age Variables and the Decision to Prosecute	53
18. Previous Criminal History of the Offender in the Prosecuted and Not-Prosecuted Cases	53
19. Types of Previous Non-Sexual Offences Recorded Against the Alleged Offender in the Prosecuted and Not Prosecuted Cases	54

TABLE	Page
20. Relationship Between Victim and Alleged Offender in the Prosecuted and Not-Prosecuted Cases	55
21. Person the Victim First Disclosed to in the Prosecuted and Not-Prosecuted Cases	56
22. Whether the Child's Disclosure was Believed by their Primary Caregiver in the Prosecuted and Not-Prosecuted Cases	57
23. Number of Incidents Alleged by the Victim in the Prosecuted and Not-Prosecuted Cases	57
24. Types of Offences in the Prosecuted and Not Prosecuted Cases	58
25. Whether the Alleged Offender Admitted the Charges in the Prosecuted and Not Prosecuted Cases	58
26. Reasons for Cases Not Proceeding to Prosecution	59
27. Investigation Outcomes in the Prosecuted and Not-Prosecuted Cases	60
28. Results of Youth Court Proceedings	61
29. Type of Penalty Imposed on Youth Offenders	61
30. Results of Prosecution Charges for Adult Alleged Offenders	62
31. Distribution of Prosecuted Cases Selected Between 20 th February 2003 and 28 th July 2004 (Sample 2)	63
32. Results of Youth Court Proceedings in Sample 2	63
33. Type of Penalty Imposed on Youth Offenders in Sample 2	64
34. Results Of Prosecution Charges for Adult Alleged Offenders in Sample 2	65

LIST OF FIGURES

FIGURE	Page
1. The Sexual Abuse Investigation Process in New Zealand	33

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ABSTRACT

Objective: This present study sought to explore officially reported allegations of child sexual abuse made to the Christchurch Police Child Abuse Unit. Demographic details of the victim and alleged offender, case characteristics and the proportion of investigated cases that progressed to the court system were analysed.

Method: The first sample consisted of all 125 reported allegations of child sexual abuse from 1st January 2004 to 28th July 2004 (7 months). The second sample consisted of all 67 prosecuted child sexual abuse cases from 20th February 2003 to 28th July 2004.

Results: Differences between prosecuted and not prosecuted cases were found with respect to child age and gender and the alleged offender's age, sex and relationship to the child. Child sexual abuse was likely to involve an offender who is known to the victim and male alleged offenders were significantly more likely to be prosecuted than females. Sixty percent of offenders had previous convictions, which were twice as likely to be for non-sexual offences as for sexual offences. Of the investigated cases, 33% resulted in charges being laid against the alleged offender. Of these prosecuted cases, 81% resulted in a conviction and 89% of convicted adult offenders received a prison sentence.

Conclusion: The present study provides an insight into the characteristics of child sexual abuse investigations. Recommendations are made for similar studies within other Police regions of New Zealand to enable regional comparisons of trends and differences.

CHAPTER 1

INTRODUCTION

“Child sexual abuse” - the very words are often enough to evoke strong emotions in the reader, accompanied by suggestions of rudimentary torturing techniques for the alleged perpetrators. Yet, although these emotions and a heightened awareness are present within the community (Geddis, Taylor & Henaghan, 1990), child sexual abuse is proving persistent across time. Little information is available from the New Zealand Justice Department to either support or deny such a suggestion. Furthermore statistical data from statutory agencies is limited. The New Zealand Police compile a Crime Statistics Report annually to Parliament. However it is rare to see these numbers interpreted in any meaningful way. There is little comparison between the numbers of allegations reported in the child sexual abuse statistics or the number of cases that are prosecuted and there are no comparisons across regions within New Zealand.

In fact, recent New Zealand research in the area of child sexual abuse is difficult to locate. During the 1980s and 1990s, only four studies examined the scope of child abuse within New Zealand (Mullen, Romans-Clarkson, Walton & Herbison, 1988; Anderson, Martin, Mullen, Romans & Herbison, 1993; Fergusson, Lynskey & Horwood, 1996; Bushnell, Wells, & Oakley-Brown, 1992).

Within New Zealand, since the 1980s and still resurfacing in the media 10 years later, Christchurch has been a city divided by the Civic Crèche enquiry. Just recently, Christchurch has again been in the media focus. Forty-six year old Graham Capill – ordained minister, morals campaigner, leader of the Christian Heritage Party for 13 years and until recently, a Police non-sworn prosecutor has pleaded guilty to charges of

indecently assaulting three females under the age of 12. Currently he is serving a 9-year prison sentence.

There is a high likelihood that the division of opinion over the Civic Crèche conviction has influenced the Canterbury public. Ultimately, it is members of the public who are chosen as jury members and who decide such verdicts. It is possible that Christchurch's history may continue to influence public perceptions of child sexual abuse. For example, Christchurch jury members may be expecting a higher standard of evidence in prosecutions of child sexual abuse offences than they were prior to the Civic Crèche enquiry and its aftermath. Furthermore, public opinion may have an impact on professionals working in this area and this also needs to be considered. The question of whether the evidence required within child sexual abuse cases, in Christchurch, is different from that required in other regions in New Zealand also needs to be asked.

Rationale for the Present Study

Many child sexual abuse researchers have argued that more research will be required if we are to fully understand the dynamics of child sexual abuse (Cross, Walsh, Simone & Jones, 2003; Finkelhor, Hotaling, Lewis & Smith, 1990). At the present time, public and professional perceptions of child sexual abuse appear to be influenced more by newsworthy cases than by research. Each year, child sexual abuse statistics are reported, yet there is no further unpacking or interpretation of these statistics. This leaves details hidden within Police files. The present study was undertaken in an attempt to rectify this deficiency. Without baseline data, it is difficult to examine the impact of changes in societal attitudes, individual and family demographics and Police investigation procedures.

The aim of the present study was to provide reliable baseline information, specific to Christchurch City, of reported allegations of child sexual abuse. The aim was to gather demographic information on the number of reported cases within a specific timeframe and track the stage at which files drop out of the investigation process.

CHAPTER TWO

LITERATURE REVIEW

The aim of the literature review reported in this chapter was to examine four specific areas within the child sexual abuse research literature, both internationally and within New Zealand. The four areas were (a) methodological issues of researching child sexual abuse, (b) estimates of prevalence, (c) characteristics of victims and offenders and (d) the Police investigation and prosecution process. The study began with database searches, using PsycINFO and PsycARTICLES. Major descriptors included “child sexual abuse” and “prevalence”, “long-term effects”, “prosecution” and “investigation”. Several recent literature reviews were found (Bolen & Scannapieco, 1999; Finkelhor, 1994; Putnam, 2003; Ullman, 2003) and these were examined for further studies. In addition, well-known authors such as “Finkelhor” and “Fergusson” were searched to locate further articles. Finally, a search of the Police intranet found relevant articles pertaining to Police investigations both within New Zealand and internationally.

Part 1: Research Issues

Although there has been much research into child sexual abuse, the research suffers from a number of methodological difficulties and recurring issues of research quality. A major difficulty has been variations in research methodology. These have made comparisons within and between countries problematic (Finkelhor et al., 1990; Finkelhor, 1994; Bolen, 2001).

Definition of Child Sexual Abuse

One of the major difficulties in assessing the scope of child sexual abuse is that the definition of sexual abuse is not consistent in the literature (Bolen, 2001; Finkelhor, 1986; Finkelhor et al., 1990; Geddis, Taylor & Henaghan, 1990). The definition that is chosen strongly affects the conclusions which can be drawn from research. A definition of child sexual abuse which is too conservative omits legitimate cases of child sexual abuse. For example, in 1979, the United States Government funded a major National incidence study of child abuse and neglect. The study limited its definition of sexual abuse to cases where a caregiver was the perpetrator. When sexual abuse is limited to parents and caregivers, a considerable proportion of child sexual abuse is automatically excluded. A further example is a New Zealand study by Mullen et al. (1988) which used an extremely narrow definition of child sexual abuse including only contact abuse with children aged 12 years or younger. On the other hand, a broad definition may result in the inclusion of incidents of sexual contact that are difficult to classify as child sexual abuse.

A New Zealand study by Anderson et al., (1993) found that 32% of a random sample of women reported experiencing at least one unwanted sexual experience prior to turning 16. Within this study, the definition of child sexual abuse included non-contact abuse such as exposure, spying, indecent suggestions and presenting pornography. Abuse categorized as non-genital contact included touching of breasts or buttocks and inappropriate kissing.

Definitions of child sexual abuse are influenced by the country of origin, the law of the land, community acceptance and the aims of the researcher (Bolen & Scannapieco, 1999). Commonly, three levels of contact are distinguished: non-contact abuse (e.g. exhibitionism), contact abuse, and penetration (Finkelhor, 1984). However, this type of

definition can be at variance with a country's legal definition. Within New Zealand, for example, the criminal law does not provide an actual definition of child sexual abuse. Rather, sections 127-142 of the Crimes Act 1961 (and the new Crimes Amendment Act 2005 which came into force in June 2005) simply list a range of offences of a sexual nature. It can be seen therefore, that detailed operational definitions that clearly specify the criteria used to evaluate experiences as sexual abuse are paramount. Until some agreement is reached with respect to definitions, comparisons among studies will remain extremely problematic (Finkelhor, 1986).

The Age Cut Off for Child Sexual Abuse

Another controversial issue regarding the definition of child sexual abuse is whether to include sexual contact between same-age peers (Bolen & Scannapieco, 1999). It is accepted that with adult-child sexual encounters, children are unable to give informed consent. However, the issue of consent is less clear with child-child sexual encounters. Are these normal sexual exploration incidents and, if so, should they be included within a child sexual abuse study?

When comparing research studies, two concerns need to be taken into account (Gorey & Leslie, 1997). First, what is the cut-off age for child sexual abuse, and secondly, when is a sexual event involving an adolescent abusive? In some studies the cut off age is set at 16 years (Finkelhor & Dzuibu-Leatherman, 1994; Fergusson et al., 1996; Anderson et al., 1993), in some at 18 years (Finkelhor et al., 1990) and in others, the cut off is set as young as 12 years (Mullen et al., 1988; Brooker, Cawson, Kelly & Wattam, 2001). As the cut off age for victim referrals to be accepted by the Police Child Abuse Unit is under 17 years, this is the cut age used within this study. The present study includes cases which have not been caught inside child sexual abuse research studies where the age cut off is under 12 years.

Methodological Differences

The second difficulty in comparing the results of child sexual abuse concerns variations in research methods. Historically, scholars believed that self-administered interviews allowed greater privacy and, therefore, that victims were more likely to admit to child sexual abuse (Peters, Wyatt & Finkelhor, 1986). Others have suggested that face-to-face interviews allow a better rapport and hence elicit more accurate disclosures (Russell, 1983). In an attempt to study the effects of methodology, and response rates, Gorey and Leslie (1997) reviewed 16 prevalence studies of child sexual abuse. They found that methodological characteristics of response rates and operational definitions accounted for 50 percent of the variability amongst estimates of child sexual abuse prevalence. On the other hand, Bolen and Scannapieco (1999) completed a prevalence meta-analysis of child sexual abuse and found that the mode of administration of questions was not significantly related to prevalence but did, however, suggest that statistically significant differences might be observed if a larger pool of methodologically rigorous studies existed.

Number of Screening Questions Used

The number of screening questions is the strongest predictor of prevalence (Finkelhor et al., 1990). As the number of screening questions increases, so too does the prevalence (Peters et al., 1986; Finkelhor et al., 1990). A recent meta-analysis by Bolen & Scannapieco (1999) included 22 prevalence studies of child sexual abuse involving random samples of respondents. This meta-analysis included studies of community populations completed in North America. The results of the review suggest that surveys with a small number of screening questions may significantly under-report the prevalence of child sexual abuse. Similar results were found in a study by Williams, Siegel &

Pomeroy (2000), where substantiated childhood victims of sexual abuse were interviewed 17 years later. A minimum of 8 screening questions was necessary to capture 90% of the known cases of child sexual abuse. A total of 14 questions were required to capture all forthcoming disclosures. Importantly this highlights that under-disclosure is a significant issue irrespective of the number of screening questions used.

The previous mentioned research projects have obtained data from victims only whereas the present research will examine official records containing data from a range of sources to evaluate the phenomena of child sexual abuse in greater detail.

Part Two: Prevalence

International Prevalence

It is not surprising that prevalence figures vary widely given variation in such factors as sample selection, response rate, definitions used and interview methods. Statistics on the prevalence estimates for child sexual abuse range from 2 % to 62% (Bolen & Scannapieco, 1999). The meta-analysis of prevalence studies of child sexual abuse in females in North America by Bolen & Scannapieco (1999) produced an overall estimate of between 30 - 40 % for females and 13 % for males. Studies chosen included random sampling and populations had to represent a community, state or national North American adult population. The estimate used in this study was that for contact abuse only. Eliminated from the review were studies of college samples, non-random samples, samples of intrafamilial abuse only, and adolescent only samples. Many of the studies varied in their stated upper age limit which ranged from 15 to 17 years. Three studies failed to stipulate an upper age limit. However for research purposes, these studies were coded, by the authors, as "before the age of 18". Finkelhor (1994), in a review of large sample, population based studies from 19 countries, including New Zealand, found

prevalence rates ranging from 7% (Finland) to 36% (Austria) for females and 3% (Sweden) to 29% (South Africa) for males.

It is not appropriate to make direct comparisons between countries. High rates for women may simply reflect numerous screening questions and sensitive interviewing. Other research showing high rates may be the result of extremely broad definitions, which include non-contact events. Low rates may reflect use of a market survey methodology using a single, vague screening question.

Table 1
Sexual Abuse Prevalence Rates (adapted from Finkelhor, 1994)

Country	Prevalence per 100	
	Women	Men
Australia	28	9
Finland	7	4
Netherlands	33	-
New Zealand	32	-
South Africa	34	29
Sweden	9	3

In a comprehensive study, Finkelhor and Dziuba-Leatherman (1994) conducted a telephone survey of two thousand children aged 10 -16 years and found a 10.5% prevalence rate for the overall sample. Six screening questions were used. The definition included one or more incidents and included both attempted and completed sexual contact. Completed child sexual abuse fell into two categories: serious non-contact incidents and contact incidents. Serious non-contact included touching in a sexual way but without touching private parts or being asked to do something sexual. No definition was given for attempted sexual connection, yet this accounted for 60% of the 10.5% prevalence.

Even prevalence figures must be considered underestimates, however, because of the known issue of traumatic amnesia of child sexual abuse events (Williams, 1994; Courtois, 1991). Given the number of prevalence studies and their confusing array of methodologies, it is difficult for one to safely determine the scope of the problem of child sexual abuse.

New Zealand Prevalence

Few studies have attempted to measure the prevalence of child sexual abuse in New Zealand. During the late 1980s and early 1990s, four New Zealand studies were undertaken, all based on community samples. In a Dunedin study (Anderson et al., 1993), a postal questionnaire and face-to-face interviews were used to assess the prevalence of child sexual abuse in a community sample of 3000 adult women. The results indicated high rates of reported childhood sexual abuse experiences where nearly one woman in three (29%) reported having one or more unwanted sexual experiences before the age of 16. In a similar study, also in Otago, Mullen et al. (1988) mailed questionnaires to a community-based sample of 2000 adult women. The questionnaire contained one screening question. This produced a prevalence of 9.9%, which is much lower than the prevalence in the Anderson et al. study. However, Mullen et al. used an extremely narrow definition of child sexual abuse, limiting abuse to contact abuse up to the age of 12. Mullen et al. concluded that the way in which the questionnaire was constructed might have resulted in a failure to identify some cases in this age group.

A similar study using a Christchurch sample, Bushnell et al. (1992) found a prevalence of 14% for intra-familial sexual abuse "when growing up" in a sample of women aged 18-44 years. This is considerably higher than the 9.9% prevalence for intrafamilial abuse obtained by Mullen et al. (1988). It is unclear what the source of these

differences is. The cause may have stemmed from the different wording of questions or differences in the way in which the information was obtained.

The fourth study involved a birth cohort of 1200 children in Christchurch, which was retrospectively interviewed at the age of 18. Ten percent of this sample reported child sexual abuse before the age of 16 (17.3% of females and 3.4% of males) (Fergusson et al, 1996). Incident frequency varied markedly ranging from single incidents of non-contact to repeated episodes of sexual violation. This is probably the most accurate estimate obtained to date.

Part Three: Characteristics of Offenders and Victims

Many clinicians believe there is an association between child sexual abuse and increased vulnerability to adult psychopathology (Finkelhor, 1994; Mullen, Martin, Anderson, Romans & Herbison, 1996). Variability in the severity of sexual abuse, its duration and the coping skills employed by the victim prevent the development of a simple cause and effect model (Putnam, 2003; Geddis et al., 1990; Bushnell et al., 1992). For example, Bushnell et al. found that 20% of female adults suffering depression, bulimia or substance abuse disorders reported experiencing sexual abuse within the family. However, further investigation indicated that sexual abuse is only one factor and that the association may be due to co-morbidity. The authors were unable to establish whether the relationship between sexual abuse and a psychological disorder was the result of the sexual abuse itself, or of characteristics of the family in which the sexual abuse occurred.

Focusing on the long-term effects of sexual abuse during childhood in a random community sample of adult women, Mullen et al. (1996), found that child sexual abuse is associated with a significant increase in many adult maladaptive symptoms such as eating disorders ($\chi^2 = 12.56$ $p < .001$), depression ($\chi^2 = 18.63$ $p < .001$), drinking at hazardous

levels ($\chi^2 = 10.43$ $p < .001$), and an enhanced risk of attempting suicide ($\chi^2 = 64.42$ $p < .0001$). In addition, histories of child sexual abuse were associated with poor self-esteem in adulthood and participants were more likely to have spent time as a patient in a psychiatric hospital ($\chi^2 = 24.01$ $p < .0001$).

It is widely argued that the distress of child sexual abuse contributes to long-term impairments in adult health and functioning (Putnam, 2003; Fergusson et al., 1996; Mullen et al., 1996). These include the *DSM* disorders of major depression, borderline personality disorder, substance abuse disorders, posttraumatic stress disorder (PTSD) and bulimia nervosa. In addition, those reporting child sexual abuse are more likely to attain lower qualifications, lower social economic status, to report having sexual problems, to have married earlier and to have had their first pregnancy prior to the age of 19 (Bushnell et al., 1992). The severity of the abuse is another important factor when considering the long-term outcome. Contact sexual abuse is generally associated with poorer long-term outcomes (Fergusson et al., 1996). Unfortunately these retrospective correlations do not provide evidence that the abuse was the cause of the adult symptomology.

Relationship Between Alleged Offender and Victim

The closer the relationship between the victim and the alleged offender, the worse the outcome (Trickett, Noll, Reiffman & Putnam, 2001). New Zealand research has established that a vast majority of the offenders are men. In a survey of prevalence of child sexual abuse within a community sample of women, Anderson et al. (1993) found that 84% of offenders were known to their victims and that stepfathers were ten times more likely to abuse than biological fathers. Thirty eight percent of abuse episodes occurred with family members and only 15% were stranger abuse episodes (Anderson et al., 1993). Fergusson et al. (1996), found that 71% of the child sexual abuse victims in

their study knew their offenders, that intrafamilial abuse is more likely with girls, and that extrafamilial abuse is more likely with boys.

Absence of and Delay in Disclosure

A large proportion of child sexual abuse does not come to the attention of authorities. If it does, it does not present with sufficient evidence to result in an investigation, which would confirm the abuse allegation. Even the most liberal estimates suggest that only about one-fourth of all child sexual abuse is recognized and substantiated (Williams, 1994).

From a legal point of view, a victim's immediate disclosure of abuse to caregivers, followed by a prompt notification to the police, represents the ideal response to childhood sexual abuse. However research suggests that quick responses occur only in a minority of cases and that some delay in disclosure is typical (Smith, Letourneau, Saunders, Kilpatrick, Resnick & Best, 2000; Finkelhor, 1994; Williams, 1994). In a critique of the literature, Geddis et al. (1990) showed that the nature of the victim/offender relationship is the most powerful factor influencing the timing of disclosure. If the child knows the offender, it is more likely the child will delay disclosure. Such delays are often used to place doubt on the credibility of the victim's accusations. Long delays, it is argued, are inconsistent with the behavior that would be expected from a person who has been victimized (Williams, 1994).

Despite the high prevalence and apparently severe long-term effects of child sexual abuse, victims often do one of two things; fail to disclose the abuse or delay telling others (Smith et al., 2000). It should be noted that the term disclosure is used in several different ways and can mean: (a) telling any person about abuse, (b) telling about abuse in a formal setting or (c) disclosure during therapy. In this paper, the term disclosure will refer to the first scenario of telling anyone about the abuse whether formally or informally.

The absence of disclosure is of concern because intervention is impossible in such cases. For example, police investigation and prosecution cannot occur without disclosure, abusers may continue to re-offend and, most importantly, the victim may suffer adverse mental and physical health consequences which could have been addressed by treatment (Smith et al., 2000).

In order for a child to disclose, they must overcome the fear of rejection, blame, shame, and guilt (Smith et al., 2000). Furthermore, in cases of intrafamilial abuse, victims often experience significant emotional conflict about making disclosures that implicate parents or loved ones, and this appears to be the main reason why such children do not make immediate disclosures.

In a United States national retrospective telephone survey of 3220 adult women, Smith et al. (2000) identified women who had been raped before age 18 and looked at the length of time which elapsed prior to a disclosure and who they disclosed to. Their results showed that delayed disclosures are very common with 28% of the victims reporting they had never told anyone prior to the research question. Nearly half of the victims did not disclose for over 5 years. Close friends were the most common person they confided in.

In a recent critical review of the literature on child sexual abuse disclosure, Ullman, (2003) found that few victims tell anyone about child sexual abuse as children. Using data from a representative community sample of 3000 women, Anderson et al. (1993), reported that 37% of victims had disclosed within one year of the abuse, 10% between 1-10 years post-abuse, 24% 10+ years later and 28% had never disclosed until the survey.

Another study looked at the manner in which the abuse was revealed, whether on purpose or accidentally, and found children who disclosed accidentally were younger, experienced abuse for shorter durations, and received the most counselling. Children who

purposely disclosed had greater anxiety and greater difficulty coping (Trickett, Nagel, Putnam, & Noll, 1997). If the decision is made by the victim to disclose, the next issue is to whom to disclose to.

Disclosed to Whom

Butler, Classen, Koopman, and Spiegel (2000), conducted an interview study of 89 adult females with severe child sexual abuse histories by known offenders. Results showed that 50% of the women had told someone in their childhood about the abuse (23% told mothers, 27% told friends, 19% told siblings, 9% told other relatives, 10% told other adults). In a New Zealand study about the consequences of disclosure or non-disclosure of abuse within dating relationships, Jackson (2002) found that most disclosures were made to a friend. The reasons for non-disclosure included feelings such as embarrassment, lack of trust and concerns regarding a breach of confidentiality.

Support from Non-Offending Parent

A recent study by Leifer, Kilbane, and Grossman (2001) analysed the correlation between a mother's relationship to the alleged offender and found that non-supportive mothers were more likely to be dependent on the alleged offender for financial support. In determining whether the non-offending parent(s) are supportive, many studies have used multiple-item measures to assess support in terms of belief, support, compliance and protective actions.

Bolen (2002) conducted a review of 27 studies to consider questions regarding how guardian support is defined within studies and what percentage of guardians are supportive to the victim. Her results showed that 75% of non-offending parents across studies were partially or fully supportive of their sexually abused child following disclosure. Many mothers spoke of their initial response to a disclosure of sexually abuse

by their child in terms of belief and then disbelief. Bolen argued that the disbelief is an almost automatic emotional reaction that acts as a natural defense against traumatic news. Most mothers were totally or partially supportive of children alleging sexual abuse but even supportive mothers exhibited inconsistent and ambivalent responses (Bolen, 2002).

It can also be asked whether it would be more appropriate to focus on all non-offending legal guardians of the victim. This recognizes that others share in the responsibility of protecting and supporting the victim (Bolen, 2001). A further study by Bolen & Lamb (2002), looked at whether social resources, specifically the presence of a second parent (or a representative of a stable adult relationship with the victim) were related to greater support. The study included 92 guardians of sexually abused children presenting at a medical center for forensic evaluation. Results showed that attachment style of the child and the guardian and whether a second guardian accompanied the child to hospital were the strongest intervening variables for guardian support. Bolen noted that these findings have not previously been tested or acknowledged in the child sexual abuse research.

Part Four: The Prosecution of child sexual abuse offences

International Comparisons

Prosecution is the most common intervention in child sexual abuse cases. Prosecution has a major impact on the offender, the victim, their family and the community (Cross, Walsh, Simone & Jones, 2003). The success of a prosecution depends on the family's commitment to this course of action, the child victim's ability as a witness, their credibility with juries, and their capacity to withstand the stress of a criminal trial (Cross, De Vos & Whitcomb, 1994). Even when an investigator believes criminal prosecution is justified, they need to weigh the costs and benefits of prosecution for the

victims, their family and the community. The investigator must also consider the possibility of the child victim experiencing secondary trauma as a result of the court process (Cross et al., 2003).

Because child sexual abuse is rarely witnessed, courts tend to require more stringent levels of proof for prosecuting child sexual abuse cases than other cases (Cross et al., 2003). One of the consequences of this is that fewer cases are prosecuted than are substantiated.

In a meta-analysis of 21 studies of prosecution for child abuse, Cross et al. (2003) showed that rates of prosecution, laying charges and sentencing varied considerably across studies. In addition the review found that a considerable proportion of child sexual abuse cases do not result in prosecution. However, of those that are prosecuted, the majority result in a conviction. Across the 21 studies, rates of cases reaching prosecution status without dismissal were consistently 72% or greater. For cases that were prosecuted, guilty plea rates averaged 82% and conviction rates were consistently high averaging 94%.

Certain characteristics of the abuse are correlated with the decision to prosecute. Two studies have found that cases of sexual abuse committed by biological parents or family members are less likely to be prosecuted (Brewer, Rowe, & Brewer, 1997; Cross et al., 1994). A similar study by MacMurray (1989) found that stepfathers and uncles were most likely to be prosecuted, whereas brothers and day care workers were least likely to be charged.

Stroud, Martens and Barker (2000) sought to identify characteristics of child sexual abuse reports which differentiated the cases referred for criminal prosecution from those that were not. Data was obtained from the forensic interview files of 1043 children. Results showed that for offences involving younger children (0-4 years), 72% cases were dropped compared to 32% of the cases involving 9-12 year olds. This difference may be

due to preschoolers being more easily intimidated and confused by the criminal prosecution system. Fifty four percent of male victim cases were dropped and 40% of female victim cases were dropped. In relation to alleged offenders 60% of female alleged offenders' cases were dropped compared to 43% male. Nearly 50% of all parent/step parent alleged offender cases are dropped from criminal-action.

There is a dearth of research on cases that have failed to meet the evidential standards required for prosecution. In a review of the literature, Stroud et al. (2000) only found two studies of this population. Cases in which mothers are divorced, separated or single are less likely to be prosecuted. This appears to reflect a fear that large numbers of children in custody disputes are led to allege abuse (Ullman, 2003). Cases are more likely to be heard if the mother is supportive. In a United States national study, four of the most common reasons stated by prosecutors for not laying charges were no corroborating evidence, the child changed his or her story, the family were against the prosecution or the child was considered too young (Gray, 1993).

There is even less research into the decision-making process regarding whether to prosecute or not. A number of studies examine the child's disclosure and the reporter's decision to report (Ullman, 2003; Smith et al., 2000; Trickett et al., 1997) but few studies examine the process of investigation and confirmation.

An important consideration is always taken into account as to whether prosecution the best solution. The prosecution process for a child sexual abuse victim has numerous hazards in comparison to the prosecution process for adult victims.

"The prosecution process for a child sexual abuse victim can be likened to a child participating in a game of snakes and ladders – where it is all snakes and no ladders." (Geddis et al., 1990)

Modifications in the process of investigating and prosecuting child sexual abuse cases to address the needs of child victims have been made. These modifications include closed circuit television outside the courtroom, or physical screens in court to prevent the child from seeing the accused. However, overall, the court system is not set up to meet the needs and the best interests of the child. The complexity and duration of the prosecution can be extremely intimidating and exhausting for a child, more so when the offender is a family member (Stroud et al. 2000).

Contrary to what the general public might think, there are no clear criteria for determining whether a case of child sexual abuse is to take the civil route, criminal route or both, to resolution (Stroud et al., 2000). Difficulties arise for both parents and investigators when the child is young because younger children are more easily intimidated and confused by the criminal prosecution system.

The New Zealand Law

Within New Zealand, there is no mandatory reporting of suspicions of child sexual abuse. It is up to front line staff - teachers, nurses, community groups, agencies and families to notice small subtle changes in behavior and to make the decision regarding what to do following apparent child sexual abuse disclosures. One of the effects of a lack of mandatory reporting may be fewer reported cases and a larger number of children unsupported and at risk. Burgdorf's study (as cited in Finkelhor, 1983) claims that close to 50% of cases of sexual abuse known to professionals do not get reported to the Police or Child Protection Services.

The Police and the Child, Youth and Family Service (CYFS), have a statutory responsibility to intervene in cases of alleged child abuse. Police investigate and where appropriate, lay criminal charges against the alleged offender. At the time of the

investigation of the research sample of files, all offences relating to sexual assaults on children were in the Crimes Act 1961. The key sections of the Crimes Act 1961, most commonly used to prosecute child sexual abuse are reproduced in Table 2.

It needs to be noted that a new Crimes Amendment Act 2005 came into force reviewing sexual crimes under the Crimes Act 1961. One of the major changes within this Act is that offences are now gender neutral, allowing a broader range of offending to be prosecuted. For example, previously there was no section within the Crimes Act 1961 allowing for prosecuting a female who committed sexual offences against a boy under 16. The Crimes Amendment Act 2005 also includes a section for “date rape” and a new offence of “sexual grooming”. This offence carries a penalty of up to 7 years imprisonment. The Crimes Amendment Act 2005 is reproduced in Appendix 1. This law change does not affect the interpretation of the data analysed for this dissertation because all of that data was collected by the Police prior to the introduction of the Crimes Amendment Act 2005.

Table 2
Crimes Act 1961: Offences Relating to Sexual Assaults on Children

Section	Description	Text	Penalty
128B	Sexual violation	Commits sexual violation	Liable to imprisonment not exceeding 20 years
129	Attempted sexual violation and assault with intent to commit sexual violation	Every one who assaults another person with intent to commit sexual violation of the other person	Liable to imprisonment not exceeding 10 years.
130	Incest	Sexual connection is incest if between two people whose relationship is that of parent and child, siblings, half-siblings, or grandparent and grandchild.	Every one over the age of 16 years liable to imprisonment not exceeding 10 years.

Section	Description	Text	Penalty
131	Sexual Intercourse with a girl under care and protection	Attempts or has sexual intercourse with girl, not being his wife, under the age of 20 and who <ul style="list-style-type: none"> – Being his stepdaughter, foster daughter or ward living with him as a member of his family – Not being a stepdaughter, foster daughter or ward but living with him as a member of his family and is under his care and protection 	Liable to imprisonment not exceeding 7 years.
132	Sexual intercourse with a girl less than 12	Sexual intercourse with any girl under the age of 12 years <p>Attempts to have sexual intercourse with any girl under the age of 12 years is</p>	Liable to imprisonment not exceeding 14 years. Liable to imprisonment not exceeding 10 years.
133	Indecency with girl under 12	Indecently assaults any girl under the age of 12 years; or <ul style="list-style-type: none"> – Being a male, does any indecent act with or upon any girl under the age of 12 years; or – Being a male induces or permits any girl under the age of 12 years to do any indecent act with or upon him. 	Liable to imprisonment not exceeding 10 years
134	Sexual intercourse or indecency with girl aged between 12 and 16	<ul style="list-style-type: none"> – Has or attempts to have sexual intercourse with any girl of or over the age of 12 years and under the age of 16 years, not being his wife. – Indecently assaults any such girl; or Being a male, does any indecent act with or upon any such girl; or – Being a male induces or permits any such girl to do any indecent act with or upon him. 	Liable to imprisonment not exceeding 7 years
135	Indecent assault	Indecently assaults another person.	Liable to imprisonment not exceeding 7 years
138	Sexual intercourse with severely subnormal woman or girls	Has or attempts to have sexual intercourse with any woman or girl who is severely subnormal, if he knows or has good reason to believe that she is severely subnormal.	Liable to imprisonment not exceeding 7 years

Section	Description	Text	Penalty
139	Indecent act between woman and girl	<ul style="list-style-type: none"> – Does any indecent act with or upon any girl under the age of 16 years; or – Induces or permits any girl under the age of 16 years to do any indecent act with or upon her. 	Every woman over the age of 21 years is liable to imprisonment not exceeding 7 years
140	Indecency with boy under 12	Being a male - <ul style="list-style-type: none"> – Indecently assaults any boy under the age of 12 years; or – Does any indecent act with or upon any boy under the age of 12 years; or – Induces or permits any boy under the age of 12 years to do any indecent act with or upon him. 	Liable to imprisonment not exceeding 10 years
140A	Indecency with boy between 12 and 16	Being a male - <ul style="list-style-type: none"> – Indecently assaults any boy of or over the age of 12 years and under the age of 16 years; or – Does any indecent act with or upon any such boy; or – Induces or permits any such boy to do any indecent act with or upon him. 	Liable to imprisonment not exceeding 7 years
142	Anal Intercourse (under 16)	Everyone commits an offence who commits an act of anal intercourse on any person- <ul style="list-style-type: none"> – Who is under the age of 16 years; or who is severely subnormal, and the person committing the act knows or has good reason to believe that the person upon whom the act is committed is severely subnormal. 	Liable to imprisonment not exceeding 14 years (victim under 12) Not exceeding 7 years (victim over 12)

Within the Crimes Act 1961, the term 'sexual violation' is defined within Section 128:

(1) Sexual violation is the act of a person who:

- (a) Rapes another person; or
- (b) Has unlawful sexual connection with another person.

(2) Person A rapes person B if person A has sexual connection with person B, effected by the penetration of person B's genitalia by person A's penis:

- (a) Without person B's consent to the connection; and
- (b) Without believing on reasonable grounds that person B consents to the connection.

(3) Person A has unlawful sexual connection with person B if person A has sexual connection with person B:

- (a) Without person B's consent to the connection; and
- (b) Without believing on reasonable grounds that person B consents to the connection.

Sexual connection means:

- (a) Connection effected by the introduction into the genitalia or anus of one person, otherwise than for genuine medical purposes, of:
 - (i) A part of the body of another person; or
 - (ii) An object held or manipulated by another person; or
- (b) Connection between the mouth or tongue of one person and a part of another person's genitalia or anus; or
- (c) The continuation of connection of a kind described in paragraph (a) or paragraph (b).

Indecent Assault means:

An assault accompanied by circumstances of indecency. The presence of an actual assault is crucial. This means that mere indecent expressions would not amount to an indecent assault, as there would need to be some act, which referred to the indecent expressions. Consequently an invitation to touch someone does not constitute an assault. If a child initiates or suggests an indecent act and the adult

doses not act to stop them, their inaction can amount to an invitation (Police Training Module, Law 172, 1992).

Christchurch Police Child Abuse Unit

The majority of Christchurch child sexual abuse cases are investigated by the Police Child Abuse Unit. The criteria for allegations and disclosures to be investigated by this unit are that the victim is less than 17 years old at the time of reporting the offense(s) and a suspect offender has been nominated. Any investigating officer with prior experience of child sexual abuse investigations may hold a case, irrespective of where they work.

The Police Child Abuse Unit is made up of a specialist team of Police detectives and constables who investigate the majority of allegations of child sexual abuse. An appropriate level of investigation is given to each allegation of child sexual abuse. A national memorandum of understanding and interagency protocol exists between CYFS and the Police to ensure a joint agency approach in both the care and protection of the child, and the investigation of the crime. Therefore, Police consult with CYFS on each reported case.

The investigation begins when a notification or an allegation of child sexual abuse is received from sources such as CYFS, parents, caregivers or teachers. Dependent on the child's age, an evidential video interview or a written statement is the first step. When required, the victim may then be referred for a medical examination by a specialist doctor. Police continue their investigations gathering forensic evidence and interviewing all the parties involved. It is the responsibility of the Police to interview any alleged offender(s) and, where appropriate, lay charges against them. Where charges have been laid it is the responsibility of the Police to prepare the file for court. A crown prosecutor presents the evidence within the court.

Whether investigated fully or not, each case alleging child sexual abuse is given an individual Police file number, which is computerized. All documentation pertaining to the investigation is held on a paper file with the video of the child's evidential interview being held for a minimum of seven years by statute. On completion of the investigation the file is held indefinitely within the Police file archives. Figure 1 shows the investigation process within New Zealand.

Factors affecting charging rates

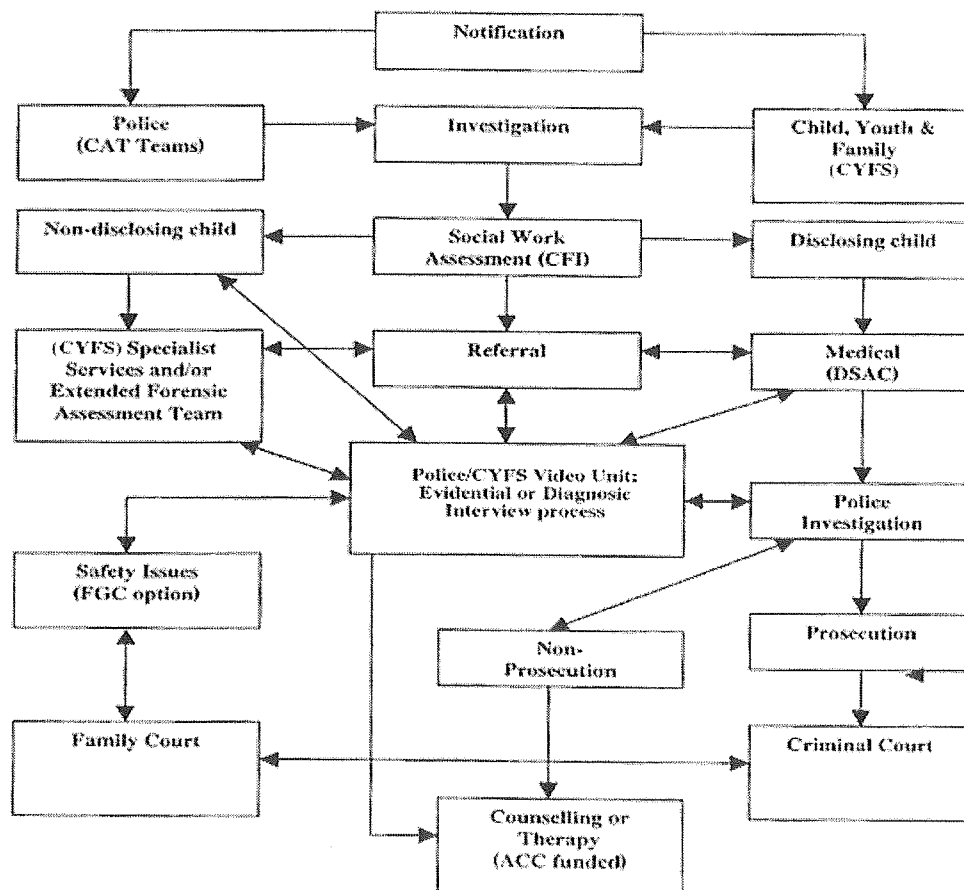
Unlike countries where the Police or Child Protection Services can refer a case to independent prosecutors, in New Zealand, the Police alone have the power to lay formal charges. The Police investigators are responsible for making the decision as to whether to prosecute the alleged offender in the court system or not. This decision is often based on whether the evidence is sufficient to prove the case beyond reasonable doubt. Charging rates depend upon a number of factors.

1. The interests of the child and family are paramount. The decision to proceed with a prosecution requires weighing up the costs and benefits to the child and family. For example, the prosecution will always taken into account whether the child has the ability to withstand the pressures of the court process and the impact of that process.
2. The screening process. It is possible that different regions within New Zealand may have varying local standards, which the investigation file must meet. Often this can be influenced by a history of what is acceptable within the local court system.
3. Further regional differences may influence the underlying assumptions surrounding child sexual abuse. For example, within Christchurch, the effects of the Civic Crèche enquiry from the 1980s may have influenced the Police to require a higher standard of

evidence for prosecution. There is also a possibility that Christchurch jury members may be influenced by the Civic Crèche controversy.

4. Charging rates are also affected by the attitudes and assumptions of Police investigators. For example some investigators may believe in putting cases before the courts and letting courts determine the outcome. Whereas others may only take cases to court when they judge there to be a high probability of conviction.

Figure 1
The Sexual Abuse Investigation Process in New Zealand adapted from Davies study (as cited in Wilson, 2003)



Key
 CAT Police Child Abuse Teams
 CYF Department of Child Youth and Family
 CFI Social Work Child-Focused Interview
 DSAC Doctors for Sexual Abuse Care
 FGC Family Group Conference
 ACC Accident Compensation Corporation

Aim of the present Investigation

There is little in the way of systematic New Zealand research into child sexual abuse. The present study thus has three main objectives. The first aim is to explore a proportion of child sexual abuse allegations from the criminal investigative system and to gather and explore the demographic details of each reported case. The second aim is to look in greater detail at a subset of these cases, that is, the cases that proceed along the criminal investigation pathway to prosecution. The final aim is to compare some of the demographic information contained in the sample of Police files with that reported in overseas studies. Specific variables which will be examined include: the proportion of cases that are investigated and move through to the criminal court system, the relative proportion of stepfathers and biological fathers investigated and the conviction rates for various types of child sexual abuse.

CHAPTER TWO

METHOD

In this study, the researcher is both currently a sworn Police Constable of 15 years service and a Child and Family Psychology Masters student at the University of Canterbury. This unique position enabled easier access to the Police files for research purposes. Written permission was sought from the New Zealand Police to undertake a search of child sexual abuse files investigated by the Christchurch Police Child Abuse Unit. Ethical approval was obtained from the University of Canterbury Human Ethics Committee. Both the Police and the University stipulated that the identity of all the parties to each investigation was to be kept confidential throughout the research.

Identification of the files to be examined during the present study was achieved by accessing the stand-alone database within the Police Child Abuse Unit. This provided a catalogue of the files to be examined. Within the database, the date an investigator entered the referral information into the database was taken as the beginning date of the investigation.

The Child Abuse Unit database tracks each investigation from the commencement of the investigation until the case is cleared or closed. This enabled the investigation to be tracked by the researcher from start to finish. Basic details such as a Police file number, victim and informant details, alleged offender details, and offence details are recorded. Further information pertaining to the outcome of the investigation is added as it comes to hand.

Sample 1

The duration of the investigation and prosecution process can often extend over 12 months therefore, files from 2004, rather than 2005 were selected in order to ensure that the majority of case outcomes had been determined. The time available for the research project determined the number of files which could be analysed. The first sample of cases selected for analysis was a sequential sample of 125 cases reported to the Christchurch Police Child Abuse Unit between 1st January 2004 and 28th July 2004 (a 7 month period). All files recorded on the database were analysed. Within each case, each alleged victim was considered a subject and was given a project number. For example, if there was more than one victim within a Police file, each victim was considered as a separate case. None of the 125 files contained more than a single alleged offender.

Sample 2

The second sample consisted of all prosecuted cases from 20th February 2003 to 28th July 2004. This sample was collected to enable a substantial number of prosecution cases to be analysed. These subjects were obtained by working back from the first file within the first sample (28th July 2004), locating prosecuted files until 67 cases had been identified and completed. Time restrictions determined the number of cases obtained.

Therefore, the 67 prosecution cases in Sample 2 consisted of the 42 prosecution cases from Sample 1 with a further 25 prosecution cases obtained between the dates 20th February 2003 and 1st January 2004 in order to extract data relating to prosecuted cases of child sexual abuse.

Design of form

For the purposes of the present study, a structured data form was created to record selected details from within each investigation selected for analysis. This form, which is reproduced in Appendix 2, was designed to record not only the demographic details of each victim and each alleged offender but also the course of the investigation and the outcome of each investigation. The data form consisted of a list of 104 possible variables to be extracted from each file. These variables were divided into four sequential clusters, or tiers of information, as follows.

Tier 1

For some cases, only a part investigation was completed due to reasons such as the child did not disclose formally, the family did not want to proceed with Police intervention or the allegation was withdrawn. This means that only limited information could be collected from all 150 files. This information will be referred to as Tier 1 information. It included demographic details such as the victim and alleged offender's gender, ethnicity, age at first offence, age at reporting, the alleged offenders occupation, the number of alleged incidents reported, any previous complaints of child sexual abuse by the victim, whether there was any history of false allegations by the victim, the living arrangements of the victim at the time of offending, the relationship between the victim and the alleged offender, the reason for the referral, the type of interview completed and the investigation outcome. Finally, the reasons for insufficient evidence for the investigation file to be fully investigated and the possibility to proceed to court were documented.

Tier 2

In some cases a full investigation was completed but the case did not proceed to Court. For these cases both Tier 1 and Tier 2 information was collected. There were 83 cases in this category. Tier 2 information extracted from each completed investigation (in addition to the Tier 1 information) included the criminal history of the alleged offender, types of prior offences, the total number of adult-sex convictions, the total number of child-sex convictions, the total number of convictions to date, and any previous allegations of child sexual abuse (not prosecuted) made against the alleged offender. Also recorded were details of strategies used to silence the victim, any witnesses, the first person told, and the extent of the time lapse around that disclosure. Information regarding the first authority notified and whether there was any delay in notifying the Police, the type of offending alleged and the most common location were recorded. Also recorded were details of any medical exam completed and the evidence obtained, and whether any other forensic evidence or pornographic materials were located during the enquiry.

Tier 3

Of the 125 cases in Sample 1, 42 were prosecuted. For these cases Tier 1, 2 and 3 data was collected. The Tier 3 data obtained (in all cases where the alleged offender was charged) included details of the criminal charges laid by Police, the result of the prosecution, the type of sentence, the length of imprisonment, or details regarding alternative sentences were documented. This tier included details pertaining to both youth offenders (under 17 years) and adult offenders (17 years and over). Tier 1, 2 and 3 information was collected for all the prosecuted cases both the 42 cases in Sample 1 and the additional 25 cases which were added to produce Sample 2.

The Pilot Study

The proposed data collection procedures were trialled on 10 representative cases. A number of minor practical problems were identified and resolved on the basis of the pilot study. A few small changes were made to the recording form itself. On the whole, however, the pilot study indicated that the procedure and materials were appropriate to the purposes of the study.

Locating the Files

The majority of the files were inactive, filed and easily obtained within the Police Archive filing system at the Christchurch Central Police Station. A number of files however, were still assigned to investigating officers within the Christchurch City. These files were obtained by the researcher through the internal mail, processed and returned within the week to the investigator. Approximately 30 files were located outside of the Canterbury area. These were either still being investigated or had been filed in another Police district. The investigating officer or filing clerk was contacted via the phone or Police email to request the file for analysis. These files were mostly sent via a courier service, processed and returned within the week to their original destination.

Files varied in size from 50 pages to 2, A4 lever arch files. Once the file was obtained, the summarizing report located at the front of the file was read to obtain the outcome of the allegations. Some details were recovered from the covering file summary. However, in most cases, the entire file had to be read to locate the required information. In some instances, the original computer printouts of prior offences had been removed from the file. This is a common police practice. As a consequence, the researcher completed additional Police data base searches with respect to these individual cases.

Data Analysis

The data from sample 1 was analysed first. The data from the recording sheets was transferred to an SPSS data file (Kinneir and Gray, 2000).

The SPSS descriptive module was used to identify the frequency of occurrences and the percentage of occurrence of cases within each of the classification variables.

The data set was then divided into cases which were prosecuted and cases which were not-prosecuted. The frequency of occurrence with respect to possible predicative variables was then recalculated for possible predictor variables for each of the two sets of cases. Where this analysis identified variables which looked as they might be correlated with prosecution status, SPSS was used to compute the level of statistical significance of the relationship. In the case of categorical data, such as victim gender, the SPSS cross tabs module was used to perform a chi square test. In the case of continuously distributed variables such as victim age the SPSS one-way analysis of variance module was used to calculate statistical significance.

A similar approach was taken to the analysis of the Sample 2 data. The main focus in analyzing the Sample 2 data was to examine differences in the treatment of youth offenders, i.e. offenders under the age of 17 and adult offenders.

CHAPTER THREE

RESULTS

Results will be reported in two sections. The first section reports the results of an analysis of the data from Sample 1 ($N = 125$), that is, all child sexual abuse allegations reported to the Christchurch Police Child Abuse Unit within the first 7-months of 2004. The second section reports results of an analysis of Sample 2 – the sample of 67 prosecuted cases.

Part 1: Sample One

Within the seven-month sample of consecutively recorded cases, a total of 132 cases were opened for the criminal investigation process. Of these, 125 were located for analysis. The seven cases not included consisted of three files that could not be located, one which was incomplete, one which was located within another district but which was not released and two files that were judged to be false complaints. False complaints, where the child and/or family had admitted to making a false allegation made up 1.5% of the total cases.

As can be seen from Table 3, 125 cases were analysed. Of these, 23% were part investigated (dropped from investigation early within the investigation process) prior to establishing that there was insufficient evidence, for one reason or another, to prosecute the alleged offender. Cases in this category included those where the child did not repeat the initial allegation within a formal setting, cases where the alleged offender was too young to be criminally culpable, cases where the family of the victim or alleged offender did not want Police intervention, and cases where there was no substantial evidence of sexual abuse having occurred. This left 98 cases, which were fully investigated. Of these, 42 (33.0%) resulted in formal charges being laid with the court.

Of the 42 prosecuted cases, 17 cases (40.4%) involved alleged offenders under the age of 17 and 25 cases (59.6%) involved alleged offenders 17 years or over (adult offenders).

Table 3

Distribution of Cases Reported to the Christchurch Police Child Abuse Unit Between 1st January 2004 and 28th July 2004 (N = 132)

Cases	N	%
(a) Analyzed		
Part Investigation	30	23.0%
Full Investigation	53	40.0%
Prosecuted	42	33.0%
Total	125	
(b) Not analyzed		
Unable to locate	3	2.3%
Located but unable to take possession of file	1	0.7%
Incomplete investigation	1	0.7%
False Complaint	2	1.2%
Total	7	100%

Characteristics of the Victim and the Alleged Offender

As can be seen from Table 4, 91 (72%) of the victims in Sample 1 were female and 34 were male. The majority of the children were of European ethnicity (73%) and 22% of the children were of Maori descent. In 53% of cases the alleged offending began before the child reached the age of nine. However, by the time of reporting only 45% were under the age of 9 years. One case analyzed, but not included within the age range was an adult victim who was intellectually impaired. Table 4 shows further summary information.

Table 4
Characteristics of the Children in Sample 1

	Total	
	N	%
Gender		
Male	34	(27.2%)
Female	91	(72.8%)
Total	125	(100%)
Ethnicity		
European	91	(73.9%)
Maori	27	(21.9%)
Pacific Island	4	(3.2%)
Asian	1	(0.8%)
Total	123	(100%)
Age at first alleged offence		
0-4 years	25	(20.3%)
5-8 years	40	(32.5%)
9-12 years	37	(30.0%)
13-17 years	20	(16.2%)
Total	123	(100%)
Age at reporting		
0-4 years	20	(16.2%)
5-8 years	30	(24.3%)
9-12 years	31	(25.2%)
13-17 years	42	(34.1%)
Total	123	(100%)

Table 5 shows that the majority of alleged offenders were male (93%) with 8 female alleged offenders (6.5%). Of the 118 cases for which data was available, 85% of the alleged offenders were European. The average age was 26.8 years (range 4 to 79 years) at the time of reporting.

Table 5
Characteristics of the Alleged offenders

	N	Total %
Gender		
Male	114	(93.5%)
Female	8	(6.5%)
Total	122	(100%)
Ethnicity		
European	100	(84.7%)
Maori	14	(11.8%)
Pacific Island	2	(1.6%)
Asian	2	(1.6%)
Total	118	(100%)
Age at the time of reporting		
0-12 years	20	(16.9%)
13-16 years	30	(25.4%)
17-25 years	15	(12.7%)
26-40 years	38	(32.2%)
Over 40 years	19	(16.1%)
Total	118	(100%)

In relation to the criminal history of the alleged offender, multiple categories were possible. For example, an alleged offender may have a history of non-sexual offending, adult sex offending and an unproven allegation of child sexual abuse. Therefore, that person would be eligible for 3 categories. There is no breakdown of between youth and adult histories. Tables 6 show that over half of the alleged offenders had a previous criminal record. In a number of cases the alleged offender had more than one prior conviction. Eighteen had extensive criminal histories (over 10 prior criminal convictions). As can be seen from Table 6, one of the alleged child sex offenders in Sample 1 had

previous convictions for adult sexual offences. Table 7 provides a more detailed breakdown of prior convictions for non-sex offences. The most common type of previous offending was property offences. There were few alleged offenders with previous domestic violence offences.

Table 6
Whether the Alleged Offender has a Previous Criminal History?

Criminal History	Total N
No criminal history	55
Previous non-sexual criminal history	39
Previous adult sex offences	1
Previous child sex offences	15
Unproven allegations of child sexual abuse	25
Total	135

Table 7
Types of Non-Sexual Previous Offences

Type of Non-Sexual Criminal History	Total N
Extensive history	18
Domestic violence	6
Prior assaults	27
Prior property	34
Prior dishonesty	27
Prior drug	17
Prior serious traffic	21
Prior fraud	10
Total convictions	160

Table 8
Relationship Between Victim and Offender

Relationship	Total	
	N	%
Intrafamilial	75	(60.9%)
Extrafamilial	48	(39.1%)
Total	123	(100%)
Intrafamilial		
Father	20	(26.6%)
Stepfather	18	(24.0%)
Brother	14	(18.6%)
Uncle	8	(10.6%)
Cousin	6	(8.0%)
Other	5	(6.6%)
Grandparent	4	(5.3%)
Total	75	(100%)
Extrafamilial		
Similar age peer	18	(37.5%)
Family friend	17	(35.4%)
Other	6	(12.5%)
Neighbour	3	(6.25%)
Foster sibling	2	(4.1%)
Babysitter	2	(4.1%)
Total	48	(100%)

Table 8 identifies the victim-offender relationships reported in the Sample 1 files. The majority of alleged offences were committed by someone who was either directly related to, or was acquainted with the victim. In 75 cases (60.9%), the alleged offender was identified as a family member (either intimate or non-intimate), with a parent or guardian accounting for a high proportion of these. Within the intrafamilial cases, 26% of alleged offenders were identified as the father, 24% as the stepfather and 18% as a brother.

In 34% of cases, the alleged offender was known to the victim but was not a family member. Within this group, similar age peers (37.5%) and family friends (35.4%) were identified as the most common alleged offenders outside of the victim's family

A chi-square analysis revealed an association between the gender of the victim and the relationship between victim and alleged offender. Female victims were more likely to be sexually abused by a person within their family. Conversely, a male victim was more likely to be the victim of a person from outside his family ($\chi^2 = 5.11$, $p < .05$)

Characteristics of the Victim's Disclosure

Information regarding the child's disclosure was available in 94 of the 123 cases. Twenty-nine of the cases showed that there was no disclosure but concerns around child sexual abuse, for example, a child that was sexually acting out. As can be seen from Table 9 the children disclosed the sexual abuse most commonly to mothers (30.9%) followed by friends (18.1%) and teachers or counsellors (13.8%).

Table 9
First Person the Victim Disclosed To

First Person Told	Total	
	N	%
Mother	29	(30.8%)
Friend	17	(18.0%)
Teacher/Counsellor	13	(13.8%)
Family friend	4	(4.2%)
Aunty	4	(4.2%)
Sister	3	(3.1%)
Cousin	2	(2.1%)
Other ^a	22	(23.4%)
Total	94	(100%)

Note. ^a Includes never told anyone, do not know, Grandparent or father.

Table 10 shows that at the time of disclosure, over half the children (56.3%) were believed by their caregiver/parent(s). A further 3.3% were believed by their caregiver/parent(s) at completion of the investigation.

Table 10

Was the Child's Disclosure Believed by their Primary Caregiver?

Believed	Total	
	N	%
Yes at time of disclosure	52	(56.3%)
Yes at end of investigation	3	(3.1%)
No	7	(7.4%)
Unable to determine	22	(23.4%)
Total	94	(100%)

The process of formal disclosure from a child victim is dependent on their developmental age. Evidential video interviewing is used for younger children. Written statements are used with teenagers. The majority of children were evidentially interviewed by way of a video interview ($n = 94$). Analysis of these evidential interviews indicates that 63 clear disclosures of child sexual abuse (67%) were obtained, and of the children who gave details of the allegation by way of written statement ($n = 14$), 12 children gave clear disclosures (85.7%).

Tables 11 and 12 show the number of offences and the duration of offending established through the Police investigation. A single reported incident of child sexual abuse accounted for 38% of allegations made while, within more than half of the cases (58.5%), the child alleged three or more separate incidents of child sexual abuse.

Characteristics of the Alleged Offences

Table 11

Number of Incidents Reported by the Victim/Family

Incidents	Total	
	N	%
One	47	(38.2%)
Two	4	(3.2%)
Three or more	72	(58.6%)
Total	123	(100%)

The duration of abuse was recorded in weeks. In over half (58.5%) of the allegations the duration of offending was less than 1 month but in 31% of cases the alleged offending had been occurring for more than six months and in 4 cases for more than 3 years.

Table 12

Duration of Alleged Offending

Duration of Offending	Total	
	N	%
0 - 4 weeks	72	(58.5%)
1 - 6 months	15	(12.2%)
6 - 12 months	23	(18.7%)
1 - 2 years	7	(5.7%)
2 - 3 years	2	(1.6%)
More than 3 years	4	(3.2%)
Total	123	(100%)

An analysis of the types of offences alleged by the children is set out in Table 13. This table indicates that indecent assault and sexual violation were the most common offences alleged by the children. Indecent assault accounted for 52.2% of allegations,

genital/mouth accounted for 16.5%, genital/digital accounted for 10.8% and genital/penile penetration accounted for 13.8% of alleged offences.

Information regarding the alleged offender's response to the child's allegations was available in 84 cases. As can be seen from Table 14, an offence was admitted to by 37% of alleged offenders and denied by 63% of alleged offenders.

Table 13
Types of Offences Alleged by the Victims

Type of Offence	Total	
	N	%
Indecent Assault	82	(52.2%)
Genitalia/Penile	21	(13.3%)
Genitalia/Digital	17	(10.8%)
Mouth/Penis	14	(8.9%)
Mouth/Vagina	12	(7.6%)
Anal/Penile	6	(3.8%)
Anal/Digital	3	(1.9%)
Anal/Object	2	(1.2%)
Total	157	(100%)

Table 14
Number of Alleged Offenders Admitting to Child Sex Abuse Charges

Admits to charge	Total	
	N	%
No	53	(63.0%)
Yes, prior to arrest	28	(29.5%)
Yes, during hearing	3	(7.5%)
Total	84	(100%)

Characteristics of Prosecuted Cases and Not-Prosecuted Cases within Sample 1

Table 15

Characteristics of Children in the Prosecuted and Not-Prosecuted Cases

	Not Prosecuted		Prosecuted		Total	
	N	%	N	%	N	%
Gender						
Male	24	(70.6%)	10	(29.4%)	34	(100%)
Female	58	(63.7%)	33	(36.3%)	91	(100%)
Total	82	(65.6%)	43	(34.4%)	125	(100%)
Ethnicity						
European	59	(64.8%)	32	(35.2%)	91	(100%)
Maori	18	(66.6%)	9	(33.3%)	27	(100%)
Pacific Island	2	(50.0%)	2	(50.0%)	4	(100%)
Asian	1	(100%)	0	(0%)	1	(100%)
Total	80	(65.0%)	43	(34.9%)	123	(100%)
Age at first offence						
0-4 years	23	(92.0%)	2	(8.0%)	25	(100%)
5-8 years	29	(72.5%)	11	(27.5%)	40	(100%)
9-12 years	18	(48.6%)	19	(51.4%)	37	(100%)
13-17 years	10	(50.0%)	10	(50.0%)	20	(100%)
Total	80	(65.6%)	42	(34.4%)	122	(100%)
Age at reporting						
0-4 years	19	(95.0%)	1	(5.0%)	20	(100%)
5-8 years	25	(83.3%)	5	(16.7%)	30	(100%)
9-12 years	16	(51.6%)	15	(48.4%)	31	(100%)
13-17 years	21	(50.0%)	21	(50.0%)	42	(100%)
Total	81	(65.8%)	42	(34.2%)	123	(100%)

In Sample 1, 43 (33%) of investigations resulted in a prosecution and 82 (66%) of investigations were not forwarded for prosecution. Several analyses were undertaken in

an attempt to identify factors related to the decision regarding whether or not to prosecute.

The characteristics of the two sub-samples (within Sample 1) of children are shown in Table 15 and the characteristics of the alleged offenders in Table 16.

There were no significant differences in the gender or ethnicity of the children between the cases that were prosecuted and those that were not. There was however a significant correlation between child age and prosecution status. The older the child the more likely it is that there will be a prosecution ($\chi^2 = 19.1$, $p < .001$). Cases involving children who were preschoolers at the time of reporting had the lowest rate of prosecution (5%), while cases involving 13-17 year olds had the highest rate of prosecution (50%).

Table 16

Characteristics of Accused in the Prosecuted and Not-Prosecuted Cases

	Not Prosecuted		Prosecuted		Total	
	N	%	N	%	N	%
Gender						
Male	71	(62.3%)	43	(37.7%)	114	(100%)
Female	8	(100%)	0	(0%)	8	(100%)
Total	79	(64.7%)	43	(34.4%)	122	(100%)
Ethnicity						
European	64	(64.0%)	36	(36.0%)	100	(100%)
Maori	9	(64.2%)	5	(35.7%)	14	(100%)
Pacific Island	2	(100%)	0	(0%)	2	(100%)
Asian	1	(50.0%)	1	(50.0%)	2	(100%)
Total	76	(64.4%)	42	(35.5%)	118	(100%)
Age at Reporting						
0-12 years	15	(75.0%)	5	(25.0%)	20	(100%)
13-16 years	15	(50.0%)	15	(50.0%)	30	(100%)
17-25 years	11	(73.3%)	4	(26.7%)	15	(100%)
26-40 years	22	(57.8%)	15	(39.4%)	38	(100%)
Over 40 years	16	(84.2%)	3	(15.7%)	19	(100%)
Total	79	(64.7%)	42	(34.4%)	122	(100%)

All alleged offenders who were referred for prosecution were male ($\chi^2 = 4.66$, $p < .05$). Table 16 shows that there was no correlation between ethnicity and prosecution status. Alleged offenders who were European and those who were Maori were equally likely to be prosecuted (36%).

One-way analyses of variance were undertaken to determine whether the decision to prosecute or not was related to victim age and the age of the accused. As can be seen from Table 17, these confirmed that the victims' age at first offence was significantly related to prosecution status both at first offence, $F(1, 122) = 3.8$, $p < .05$, at last offence, $F(1, 119) = 6.5$, $p < .01$, and at age of reporting, $F(1, 123) = 6.95$, $p < .01$.

Table 17
Relationship Between Age Variables and the Decision to Prosecute

Source	<i>df</i>	<i>F</i>	<i>p</i>
Victim age at first offence	1	3.81	.05
Victim age at last offence	1	6.55	.01
Victim age at reporting	1	6.95	.01
Accused age at first offence	1	.46	.50
Accused age at reporting	1	.22	.63

Table 18
Previous Criminal History of the Offender in the Prosecuted and Not-Prosecuted Cases

Criminal History	Not Prosecuted N	Prosecuted N	Total N
No Criminal History	32	23	55
Previous Criminal History	20	19	39
Previous Adult Sex offences	0	1	1
Previous Child Sex Offences	9	6	15
Unproven prior Child Sexual Abuse Allegations	17	8	25
Total	78	57	135

When identifying prior criminal history, multiple classifications were possible. In relation to previous history, Table 18 shows that 15 alleged offenders had previous child sexual abuse convictions. Of the not-prosecuted cases ($n = 78$), 17 alleged offenders had prior unproven child sexual abuse allegations compared to 8 of the prosecuted alleged offenders. Those alleged offenders with previous unproven prior allegations of child sexual abuse were twice as likely not to be prosecuted as prosecuted. When considering the types of previous convictions, Table 19 shows that type of prior offending is not predictive of whether or not the alleged offender is likely to be prosecuted.

Table 19
Types of Previous Non-Sexual Convictions Recorded Against the Alleged Offender in the Prosecuted and Not-Prosecuted Cases

Type of Criminal History	Not Prosecuted	Prosecuted	Total
	N	N	N
Extensive History	11	7	18
Domestic Violence	4	2	6
Prior Assaults	14	13	27
Prior Property	19	13	34
Prior Dishonesty	17	10	27
Prior Drug	11	6	17
Prior Serious Traffic	11	10	21
Prior Fraud	9	1	10
Total Convictions	96	64	160

Table 20 shows the relationship between victim/offender relationship and prosecution status. The proportion of intrafamilial cases that were prosecuted was identical to the proportion of extrafamilial cases that were prosecuted. In the intrafamilial cases, stepfathers were more likely to be prosecuted (45%) than were fathers (20%).

In the extrafamilial cases, the abuse was most commonly committed by a family friend (35.4%) or a similar aged peer (37.5%). Similar aged peers were less likely to be prosecuted than family friends, neighbours and babysitters. Strangers accounted for very few of the overall allegations.

Table 20
Relationship Between Victim and Alleged Offender in the Prosecuted and Not-Prosecuted Cases

Relationship	Not Prosecuted		Prosecuted		Total	
	N	%	N	%	N	%
Intrafamilial	49	(65.4%)	26	(34.6%)	75	(100%)
Extrafamilial	31	(64.5%)	17	(35.5%)	48	(100%)
Total	80	(65.0%)	43	(34.9%)	123	(100%)
Intrafamilial						
Father	16	(80.0%)	4	(20.0%)	20	(100%)
Stepfather	10	(55.5%)	8	(44.6%)	18	(100%)
Uncle	7	(87.5%)	1	(12.5%)	8	(100%)
Brother	7	(50.0%)	7	(50.0%)	14	(100%)
Cousin	3	(50.0%)	3	(50.0%)	6	(100%)
Grandparent	3	(75.0%)	1	(25.0%)	4	(100%)
Other	2	(50.0%)	2	(50.0%)	5	(100%)
Total	48	(64.0%)	26	(34.6%)	75	(100%)
Extrafamilial						
Family friend	8	(47.1%)	9	(52.9%)	17	(100%)
Babysitter	0	(0%)	2	(100%)	2	(100%)
Neighbour	1	(33.3%)	2	(66.6%)	3	(100%)
Similar age peer	14	(77.7%)	4	(22.2%)	18	(100%)
Foster sibling	2	(100%)	0	(0%)	2	(100%)
Other	6	(100%)	0	(0%)	6	(100%)
Total	31	(64.5%)	17	(35.4%)	48	(100%)

Table 21 shows that there were few relationships between who the child disclosed to and prosecution status, although it appears less likely for a case to be prosecuted if the child disclosed to a teacher or counsellor.

Table 21
Person the Victim First Disclosed to in the Prosecuted and Not-Prosecuted Cases

First Person Told	Not Prosecuted		Prosecuted		Total	
	N	%	N	%	N	%
Mother	16	(55.1%)	13	(44.9%)	29	(100%)
Other ^a	12	(54.5%)	10	(45.4%)	22	(100%)
Friend	8	(47.1%)	9	(52.9%)	17	(100%)
Teacher/Counselor	10	(76.9%)	3	(23.1%)	13	(100%)
Family friend	1	(25.0%)	3	(75.0%)	4	(100%)
Aunt	1	(25.0%)	3	(75.0%)	4	(100%)
Sister	2	(66.0%)	1	(33.3%)	3	(100%)
Cousin	1	(50.0%)	1	(50.0%)	2	(100%)
Total	51	(54.2%)	43	(45.7%)	94	(100%)

Note. ^a Includes never told anyone, do not know, grandparent or father.

Whether or not the child was believed appears to have been unrelated to the decision to prosecute with three cases proceeding to court even though the child's caregiver did not initially believe the child's allegation. Of the cases where the child was believed 47.4% proceeded to prosecution.

Overall about 57% of the clear disclosures from child victims resulted in prosecution while 48% did not. Half (50%) of the clear disclosures obtained by way of a statement from older children resulted in a prosecution and half did not. Those cases that were not prosecuted would cease to have Police involvement. The files did not hold information pertaining to follow-up involvement from other agencies.

Table 22

Whether the Child's Disclosure was Believed by their Primary Caregiver in the Prosecuted and Not-Prosecuted Cases

Believed	Not Prosecuted		Prosecuted		Total	
	N	%	N	%	N	%
Yes at time of disclosure	44	(52.3%)	40	(47.7%)	84	(100%)
Yes at end of investigation	3	(100%)	0	(0%)	3	(100%)
No	4	(57.1%)	3	(42.9%)	7	(100%)
Total	51	(54.2%)	43	(45.7%)	94	(100%)

As the number of reported incidents increased so to did the chance of the case reaching the criminal court, ($\chi^2 = 10.06, p < .01$). As can be seen from Table 22, 43% of cases with allegations of three or more incidents were carried forward to prosecution compared to 19% of cases where allegations of a single incident were made.

Table 23.

Number of Incidents Alleged by the Victim in the Prosecuted and Not-Prosecuted Cases

Incidents	Not Prosecuted		Prosecuted		Total	
	N	%	N	%	N	%
One	38	(81.0%)	9	(19.0%)	47	(100%)
Two	1	(25.0%)	3	(75.0%)	4	(100%)
Three or more	41	(57.0%)	31	(43.0%)	72	(100%)
Total	80	(65.0%)	43	(34.9%)	123	(100%)

In relation to the duration of the alleged offending, results indicate that there was a significantly greater duration of abuse in prosecuted cases ($M = 52.6$ weeks, $SD = 71.8$) than in non-prosecuted cases ($M = 20.5$ weeks, $SD = 37.1$, $F(1, 121) = 11.02, p < .001$).

Inspection of Table 24 shows that the less common types of offences were more likely to result in prosecution than the most common type of offence (indecent assault).

Table 25 shows that offenders who admitted the offence were much more likely to be charged than offenders who denied the child's allegations. A chi-square analysis revealed a significant correlation between admitting to the offence and prosecution status ($\chi^2 = 3.79, p < .05$).

Table 24
Type of Offences in the Prosecuted and Not-Prosecuted Cases

Type of Offence	Not Prosecuted		Prosecuted		Total	
	N	%	N	%	N	%
Indecent Assault	41	(50.0%)	41	(50.0%)	82	(100%)
Genitalia/Penile	10	(47.6%)	11	(52.4%)	21	(100%)
Genitalia/Digital	6	(35.3%)	11	(64.7%)	17	(100%)
Mouth/Penis	6	(42.8%)	8	(57.2%)	14	(100%)
Mouth/Vagina	4	(33.3%)	8	(66.6%)	12	(100%)
Anal/Penile	1	(16.6%)	5	(83.6%)	6	(100%)
Anal/Digital	1	(33.3%)	2	(66.6%)	3	(100%)
Anal/Object	0	(0%)	2	(100%)	2	(100%)
Total	69	(43.9%)	88	(56.1%)	157	(100%)

Table 25
Whether the Alleged Offender Admitted the Charges in the Prosecuted and Not-Prosecuted Cases

Admits to charge	Not Prosecuted		Prosecuted		Total	
	N	%	N	%	N	%
No	35	(66.0%)	18	(33.9%)	53	(100%)
Not interviewed	11	(100%)	0	(0%)	11	(100%)
Yes, prior to arrest	6	(21.4%)	22	(78.5%)	28	(100%)
Yes, during hearing	0	(0%)	3	(100%)	3	(100%)
Total	52	(54.7%)	43	(45.2%)	95	(100%)

Prosecution Outcomes and Penalties Imposed

Two thirds of the cases investigated (66%) were closed without a prosecution. A variety of reasons were given in the files for the decision not to proceed to prosecution. These are summarized in Table 26.

Table 26
Reasons for Cases Not Proceeding to Prosecution

Reason	Partial Investigation N	Full Investigation N	Total N
Offender denies allegations	11	34	45
Conviction unlikely with Court	10	29	39
Child retracts details	16	9	25
Child too vulnerable for Court	10	14	24
Child too young for Court	13	11	24
Child inconsistent with details	10	13	23
Not best for all to prosecute	6	16	22
Failed video regulations (too young)	10	5	15
Evidence contaminated	4	9	13
Family against court process	2	6	8
Extensive agency intervention	1	4	5
Family disbelieve the child	3	2	5
Total	96	152	248

As can be seen from Table 26, the most common reasons for not proceeding are the alleged offender denying the allegations and the investigating officer deciding that a conviction would be unlikely to be achieved. It is also clear that cases involving younger children are less likely to proceed. Developmentally, children are at a disadvantage within the criminal court system. Of the reasons not to proceed to court, 25% were that the child was too vulnerable for the criminal court process or too young for the criminal court process. Within the initial investigative evidential video interview, many of the children

were not at a sufficient developmental level to comply with mandatory regulations, such as showing an understanding of the concepts truth, lies and promises, to meet the requirements for criminal proceedings.

Prosecutions fall into two categories: youth (under 17), which are heard in the Youth Court and adults (17 years and over), which are heard in the Criminal Court. Ninety cases (72%) were allegations against adults while 35 (28%) were allegations against youths. Table 27 shows that one third of the cases investigated proceeded to prosecution. Of the youth offenders, 17 (48.5%) were charged (within the Youth Court system). Of the 90 adult offenders (27.7%) were charged (within the Criminal Court system). Results indicate that youth offenders are more than 1.7 times more likely to be charged than adult offenders.

Table 27
Investigation Outcomes in the Prosecuted and Not-Prosecuted Cases

Outcome	Not Prosecuted		Prosecuted		Total	
	N	%	N	%	N	%
Youth (under 17)	18	(51.4%)	17	(48.5%)	35	(100%)
Adult (17 and over)	65	(72.2%)	25	(27.7%)	90	(100%)
Total	83	(66.4%)	42	(33.6%)	125	(100%)

Offenders aged 16 and under

The outcomes for the 17 youth offenders are shown in Table 28. Three of the 18 youth offenders not charged were officially warned. The 17 charged cases were often dealt through the Youth Court by way of a Family Group Conference (23%). Of the 17, 82% were found guilty, 2 had the charges withdrawn and 1 youth was found not guilty.

Table 28
Results of Youth Court Proceedings

Results of charge	Frequency	
	N	%
Found Guilty in Youth Court	10	(58.8%)
Found Guilty at Family Group Conference	4	(23.5%)
Charges Withdrawn	2	(11.7%)
Found Not Guilty	1	(5.8%)
Total	17	(100%)

The penalties imposed on the 14 youths who were found guilty tended to take the form of a multi-agency intervention package. As can be seen from Table 29, this package tended to include family intervention, counselling and CYFS follow up.

Table 29
Type of Penalty Imposed on Youth Offenders

Penalty	Frequency
Family Intervention	13
Counselling	13
Stop Adolescent Programme	13
CYFS follow up	13
Taken into CYFS Custody	6
Total	58

Offenders aged 17 and over

From the total sample of adult cases ($n = 90$), 25 resulted in charges being laid against the alleged offender. As can be seen from Table 30, 80% of these resulted in a conviction.

Table 30
Results of Prosecution Charges for Adult Alleged Offenders

Results of charge	Frequency	
	N	%
Found not guilty	3	(12%)
Charges withdrawn	1	(4%)
Retrial ordered	1	(4%)
Found guilty	20	(80%)
Total	25	(100%)

Of the 20 convicted offenders, 90% received a prison sentence. One offender was dealt with via the Restorative Justice System (outside the criminal court, within the community) and 1 offender received a monetary fine and counselling. The length of prison sentence initially indicated by the judge averaged 45 months. Of the 18 cases, 6 cases (33.3%) received a remission, that is, time taken off the actual sentence by the judge, for a guilty plea or for the incidents being historic. The average remission was 7.8 months. Individual lengths of remission ranged from 6 months to 36 months. The actual prison sentence imposed by the judge ranged from 6 months to 108 months ($M = 39$ months).

Part 2: Sample Two

The second sample of cases includes the 42 prosecution cases from Sample 1 together with 25 prosecuted cases from the preceding year. In other words, Sample 2 consists of a sequence of 67 child abuse prosecutions. The additional 25 prosecuted cases were obtained through the Child Abuse Unit database rather than physically searching

each documented file for evidence of a prosecution. This meant that possible prosecution cases that were not updated and documented within the database may have been missed.

The number of youth cases and adult cases is shown in Table 31.

Table 31

Distribution of Prosecuted Cases Selected Between 20th February 2003 and 28th July 2004

Cases	N	%
(a) Analyzed prosecution cases		
Adult alleged offender	43	(64.0%)
Youth (16 and under)	23	(34.3%)
(b) Not analyzed		
Incomplete outcome	1	(1.5%)
Total	67	(100%)

Alleged Youth Offenders (16 Years and Under)

The number of prosecuted youth offenders in Sample 2 was 23. Of these 11 were charged in the Youth Court and 9 were charged through the Youth Court within a Family Group Conference. As can be seen from Table 32, 86.9% of cases were found guilty, 1 charge was withdrawn and 1 youth was found not guilty.

Table 32

Results of Youth Court Proceedings in Sample 2

Results of charge	Frequency	
	N	%
Found Guilty in Youth Court	11	(47.8%)
Found Guilty at Family Group Conference	9	(39.1%)
Charges Withdrawn	2	(8.6%)
Found Not Guilty	1	(4.3%)
Total	23	(100%)

As seen in Sample 1, the penalties imposed for youth offenders took the form of multi-disciplinary, multi-agency intervention package which included family intervention, counselling and CYFS follow up.

Table 33
Type of Penalty Imposed on Youth Offenders in Sample 2

Penalty	Frequency
	N
Family Intervention	18
Counselling	18
Stop Adolescent Programme	19
CYFS follow up	18
Taken into CYFS Custody	7
Total Interventions	80

Adult Alleged Offenders

Of the 43 adult cases where charges were laid, 35 prosecutions (81.4%) resulted in convictions. The complete breakdown is shown in Table 34.

Of the 43 prosecuted cases, 16 of the alleged offenders (37%) changed their plea to guilty prior to or during the court hearing. Of the 35 convicted child sex offenders, 31 offenders (89.0%) received a prison sentence and two received a suspended sentence, one offender was dealt with via the restorative justice system (outside the criminal court, within the community) and one offender received a monetary fine. Six of the convicted offenders were required to attend counselling. The average prison sentence initially imposed was 43.6 months. Of the 31 prison sentences, seven (22.5%) received a

remission. The average remission was 5.6 months. The remissions ranged from 6 months to 36 months. The final sentences imposed by the judge ranged from 6 months to 132 months with a mean of 36 months.

Table 34
Results of Prosecution Charges for Adult Alleged Offenders in Sample 2

Results of charge	Frequency	
	N	%
Found guilty	35	(81.4%)
Found not guilty	6	(11.6%)
Charges withdrawn	1	(2.3%)
Retrial ordered	1	(2.3%)
Total	43	(100%)

CHAPTER FOUR

DISCUSSION

This paper has studied a regional sample of allegations of child sexual abuse officially reported to the Christchurch Police Child Abuse Unit. This data cannot be assumed to be representative of actual child sexual abuse incidents. First, the Christchurch Police Child Abuse Unit investigates the majority, but not all, allegations of child sexual abuse within the Canterbury region. Secondly, there is New Zealand evidence to suggest that less than 10% of even the most serious abuse comes to official notice at the time (Anderson, Martin, Mullen, Romans & Herbison, 1993). However, this sample is representative of allegations reported to the Christchurch Police because it includes all reports received by the Christchurch Police Child Abuse Unit over a 7-month period, between 1st January 2004 to 28th July 2004 and the second sample consisting of all 67 prosecuted child sexual abuse cases from 20th February 2003 to 28th July 2004 (18 months).

Demographic Information

The results of the present research are consistent with the results of other studies such as Smallbone and Wortley (2000) and unpublished results obtained from a New Zealand national statistics database developed at the CYFS Manuwai Video Unit (Basher, 2003), in finding that child sexual abuse is more likely to involve an offender who is related or known to the victim (Anderson et al., 1993; Putnam, 2003; Fergusson & Mullen, 1999; Finkelhor & Hotaling, 1984). Within the victim's family, fathers and

stepfathers were the most common alleged offenders. Family friends and similar age peers were identified as the most common extrafamilial alleged offenders.

The present results were also consistent with those of previous studies in finding that male alleged offenders were significantly more likely to be prosecuted than females and that alleged offenders are significantly more likely to abuse female children (72%) than male children (Finkelhor, 1983; Stroud, Martins & Barker, 2000; Cross, Walsh, Simone & Jones, 2003; Smallbone & Wortley, 2000). As far as intrafamilial abuse is concerned, females were more likely to be victims than males and younger age children were more likely to be victims, than the older children. On the other hand, older male children were significantly more likely to be molested by a person from outside of their families than younger males as observed in other studies. (Smallbone & Wortley, 2000; Stroud et al., 2000) These results suggest that future programmes aimed at the prevention of child sexual abuse could be more gender and age specific in their application than is presently the case.

Age of Victim Determines Prosecution

Child sexual abuse prosecutions present a special challenge. There is often little evidence and a significant reliance on the testimony of a child victim. Therefore, the prosecution often depends on the family's commitment together with the child's ability to perform as a competent witness under the stressful conditions of a criminal trial.

The present results show that the age of the child plays a major role in determining whether or not a case proceeds to prosecution with charges being laid much more often in cases where the victim is over 4 years of age than in cases where the victim is under 4 years of age. Ninety five percent of cases involving children aged 4 and under did not proceed to the criminal court. The results of the present study highlight the way in which

investigators, together with the victim's family, drop the majority of cases involving younger children. In the files examined, the decision not to proceed was most commonly justified by arguing that the necessity to weigh up the costs and benefits of prosecution for the victim, the family and community is paramount within a child sexual abuse investigation. Common reasons for dropping these cases were that the court system was too intimidating and confusing for the child, and that the child was too vulnerable for a court case.

There have been many improvements within the court system for child witnesses. The Evidence Amendment Act (1989) and the associated Evidence (Videotaping of Child Complainants) Regulations (1990) have enabled children up to the age of 17 years to present their evidence to a court in a variety of ways including cross-examination via closed circuit television, cross-examination inside the courtroom using screens and the use of video statements as evidence-in-chief. However, there is still a long way to go before the court system addresses the intimidatory features of court proceedings and the stress that this places on child witnesses. These victims are still required to participate in what is essentially an adult process, irrespective of their developmental level.

Age of Offender Determines Outcome

Age also plays a significant role in relation to what happens to alleged offenders. The present results have shown that youth offenders are significantly more likely to be prosecuted (albeit through the Youth Court or a Family Group Conference) than are adult offenders. On the whole, the punishment for being under 17 at the time of offending, is a prevention and rehabilitation package of outcomes such as family intervention, counselling and CYFS follow up. For adult offenders on the other hand, the penalty is much more severe. Adult offenders almost always receive prison sentences. Furthermore,

accompanying the prison sentence is a criminal record and the social stigmatization that results from being labeled a child sex offender. Unfortunately, the Police data system provides no data regarding the extent to which youth offenders reoffend following their rehabilitation and prevention programme.

Criminal History of Alleged Offender

Child sexual abuse offenders do not appear to be a distinct offender category. Over 60% of the offenders in the present study had previous convictions and these offences were twice as likely to be for non-sexual offences as for sexual offences.

The current results are consistent with findings from a Queensland study of offender characteristics (Smallbone & Wortley, 2000) showing that over 61% of child sexual offenders are involved more generally in criminal activity. In other words, many offenders may not require any special motivation to sexually abuse children. To a certain extent, their sexual offending may be another example of the broader lack of conformity with social morals and laws with a tendency for general antisocial behaviour (Ward & Siegert, in press).

These results are not to minimize the seriousness of child sexual abuse, nor to deny the existence of the stereotypical paedophile. What the findings highlight is the question of the suitability of specific treatment programmes to treat "paedophiles" when it appears that the paedophiles are people who engage in a range of criminal offending.

Offence Characteristics

Many of the results obtained from the present study are consistent with those reported by Stroud, Martin and Barker (2000); Basher (2003); Putnam, (2003); Anderson et al. (1993) and Finkelhor, (1983). The results show that indecent assault and sexual

violation were the most common types of abuse alleged by children. In the present study, indecent assault accounted for 67% of allegations; oral sex for 20%, genital/digital manipulation for 16% and gentle/penile penetration for 14% of alleged offences.

Consequences of Formal and Informal Disclosure

Children disclosing abuse clearly have much less power than adult victims and face much greater hazards by disclosing. These hazards include not being believed, breaking up one's family, guilt, and "getting the alleged offender into trouble".

Of the children who disclosed sexual abuse, 40% disclosed within one month of the alleged offending and a further 39% disclosed within one year. These data are higher than a retrospective sample of adult women where 27% disclosed within one month (Smith, Letourneau, Saunders, Kilpatrick, Resnick & Best, 2000). The finding that mothers were the most common person initially disclosed to was consistent with research by Butler, Classen, Koopman and Spiegel (as cited in Ullman, 2003) but differs from the results of Smith et al. (2000) where it was found that a close friend was the most common person.

The fact that the child has disclosed within a formal setting does not guarantee prosecution or further appropriate intervention and therapeutic services. Of those children who formally disclosed in an evidential video interview, 43% of the allegations did not proceed to prosecution. Of those older children who made a clear formal written statement, 50% did not lead to prosecution.

There are few studies of the outcome for sexually abused children of unproven allegations of sexual abuse. Little is known of the impact, on the child and on the family, of making an allegation of sexual abuse that does not lead to prosecution. These children often fall between the cracks of agencies with little follow up or therapeutic intervention.

Furthermore, Police involvement with the family and child usually ceases when the decision not to prosecute is made. If there are no care and protection issues, CYFS will also cease their involvement. From my experience of working within this area, the consequences of an allegation often fall back on the child and family. They are left to pick up the pieces of an often divided extended family and a child who is possibly more often than not, suffering not only the effects of child sexual abuse but also the effects of not being believed.

Conviction Rate in Child Sexual Abuse Cases

Many studies of prosecution rates have been consistent in showing an enormous attrition rate following investigation (Cross, Walsh, Simone & Jones, 2003; Stroud, Martens & Barker, 2000; Finkelhor, 1983).

This study also indicates that overall, a relatively small proportion (33%) of child sexual abuse offences advances through to charges being laid against the alleged offender. The charging rate in the present study is at the lower end compared to the 13 studies included in the Cross et al. (2003) meta-analysis where prosecution rates ranged from 28 – 94%. However, the present results are slightly higher than a U.S. national study of officially reported cases (Finkelhor, 1983) where criminal action was taken in 24% of all reported cases. Even in the U.S. huge variations existed. For example, the State of Nevada showed a 43% charging rate, while Arkansas had a 10% charging rate. It is possible that different regions of New Zealand have similarly diverse prosecution rates. Regional differences may arise as a result of various factors such as contrasting philosophies behind investigating child sexual abuse allegations, different screening procedures, dissimilar standards of evidence requirements by the crown or different levels of skill and experience of the prosecutor.

Furthermore with child sexual abuse investigations, agency dynamics operate. Where possible, Police look to take criminal action against an alleged offender while CYFS focus on casework and the care and protection of the child. The result of a joint agency approach to investigations and interventions has encouraged alternative, successful outcomes that are not necessarily “prosecution”.

However, when charges are laid, the majority (81.4%) of child sexual abuse cases that are prosecuted do end in conviction. In other words, child sexual abuse cases are less likely to have charges laid but when charges are laid, a conviction is likely. The conviction rate in the present study is slightly lower than the rates within the Cross et al. (2003) meta analysis, where 16 of the 19 studies had rates of 90% or greater. This consistency across studies and across countries suggests that the Police are charging cases that they judge to have a high probability of conviction. The high conviction rate and low dismissal rate may reflect the seriousness of these cases and the care with which the Police have prepared them which, in turn, may be related to the investment of time and resources which they require.

The present study found that 89% of adult offenders receive a prison sentence. In comparison to the Cross et al. (2003) meta-analysis an 89% incarceration rate is higher than 12 of 14 studies analysed. Effective alternatives to a prison sentence may promote lower rates of custodial sentences. Christchurch’s high rate of prison sentences may indicate a lack of acceptable alternative options.

Methodological Issues, Strengths and Limitations

Police investigation files have the purpose of documenting and recording allegations, recording alleged offender statements, recording police procedure, documenting evidence and recording the investigation outcome. Police files are not set up

for research purposes. This means that the same information does not appear in all files. Information may appear in some files but not others and any attempt, like the present study, to extract data from the files results in missing data on some variables. Information pertinent to the specific questions asked of the data may be missing or of questionable reliability. Most administrative databases are not designed appropriately for follow-up studies. In general, research findings derived from administrative data must be taken as suggestive or preliminary rather than as convincing evidence of causation (Finkelhor, 1983).

However, what the Police files do provide is information pertaining to official allegation of child sexual abuse. This present study provides a snapshot of a 7-month period of child sexual abuse investigations in an area where there is a dearth of research. This unique study has made it possible to obtain, analyze and interpret a rich source of data from within Christchurch Police child sexual abuse investigation files. Under normal circumstances, this information would have remained unanalysed within these files.

Initially, it had been hoped to use Police data to calculate prevalence rates. However, this proved not to be possible. One of the reasons for this was because the Canterbury Police catchment area does not correspond to the Canterbury census region used by Statistics New Zealand.

A sample of 125 cases is a sample of modest size. This sample size means that infrequently occurring events will be susceptible to sampling error. However, the sample is quite large enough to support many of the conclusions which have been drawn.

There is a possibility that some prosecution files have been missed within Sample 2 as obtaining prosecution files for this sample proved more difficult than for Sample 1. Within Sample 1, the manual handling of each file meant that prosecuted files were

located that were not necessarily documented as 'prosecuted' on the database. However, the Sample 2 files were located by working through the database only.

Some categorical information may have been lost through having broad categories within some variables. For example, the category "other" in the first person the child disclosed to variable would enable a more informative breakdown of the data to establish a difference between those that never disclosed to anyone and those that did.

Future Research

The current response to the scope of the problem of child sexual abuse remains inadequate. Better reporting and dissemination of data from the Police investigation files could increase the number of studies and also better present standard practice. New studies that report rates within each Police region could assist in determining the effects of changes in policy and practice, such as the introduction of multidisciplinary teams, and victim witness advocates.

In addition, there is no follow up information concerning those cases with some evidence but insufficient evidence to meet the standards of the criminal court and there is little detail on victim impact variables. This is a further area in need of future research focusing on the impact on a child and their family when an allegation of child sexual abuse, for various reasons, does not proceed to the court arena.

The targeting of active child sexual offenders may need to consider whether extrafamilial or intrafamilial offenders should be given priority. These results show that most alleged offenders are known to their victims. Therefore, public education campaigns focusing on "stranger danger" need to be balanced with programmes that recognise the danger that exists for many children in the home and amongst family friends.

Finally, the investigation of child sexual offending is most often fraught with difficulty. Whether directly or indirectly involved, most people have strong emotions and opinions in the area of child sexual abuse. Within such an emotive area, data is paramount both for clarifying the nature of the problem and for a rational evaluation of current responses to that problem.

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APPENDIX 1

Crimes Amendment Act 2005

Introduction

This Crimes Amendment Act 2005 ("the Act") came into force on 21 May 2005. The Act represents a complete review of sexual crimes under the Crimes Act 1961. One of the major changes brought by the Act is that where previously offences could be committed only by a male, or could only contemplate a female victim, these offences will now be gender neutral. This allows for a broader range of offending to be prosecuted, for instance it will allow females who commit sexual offences against boys under 16 to be prosecuted. One exception to gender neutrality remaining is the law of rape; this offence continues to specify that a male rapes a female if he has sexual connection with that female by penile penetration of her genitalia. The Act provides for a wider range of vulnerable victims, such as those with mental impairment, the Act also covers the 'date rape' situation by widening the range of situations that do not constitute consent. The offence of incest has been extended to cover all forms of sexual offending against people aged under 18. The Act also includes a new offence of 'sexual grooming'. This offence carries a penalty of up to 7 years imprisonment and will allow those who contact children with the intention of committing sexual offences to be prosecuted. The wordings of sections 208 to 210 of the Crimes Act 1961 have also been updated. Outlined below are sections from the Act that are of most relevance to staff.

3 Interpretation

'sexual connection' means—

(a) connection effected by the introduction into the genitalia or anus of one person, otherwise than for genuine medical purposes, of—

(i) a part of the body of another person; or

(ii) an object held or manipulated by another person; or

(b) connection between the mouth or tongue of one person and a part of another person's genitalia or anus; or

(c) the continuation of connection of a kind described in paragraph (a) or paragraph (b).

(2) Section 2 of the principal Act is amended by inserting, after subsection (1), the following subsections:

(1A) For the purposes of paragraph (a) of the definition in sub-section (1) of sexual connection, introduction to the slightest degree is enough to effect a connection

(1B) For the purposes of this Act, one person does an indecent act on another person whether he or she—

(a) does an indecent act with or on the other person; or

(b) induces or permits the other person to do an indecent act with or on him or her.

127 No presumption because of age

There is no presumption of law that a person is incapable of sexual connection because of his or her age.

128 Sexual violation defined

(1) Sexual violation is the act of a person who—

(a) rapes another person; or

(b) has unlawful sexual connection with another person.

(2) Person A rapes person B if person A has sexual connection with person B, effected by the penetration of person B's genitalia by person A's penis,—

(a) without person B's consent to the connection; and

(b) without believing on reasonable grounds that person B consents to the connection.

(3) Person A has unlawful sexual connection with person B if person A has sexual connection with person B—

(a) without person B's consent to the connection; and

(b) without believing on reasonable grounds that person B consents to the connection.

(4) One person may be convicted of the sexual violation of another person at a time when they were married to each other.

Comment Sexual Violation includes both rape and unlawful sexual connection. Unlawful sexual connection is a gender neutral offence whereas the offence of rape remains an offence committed by a male offender on a female victim. The description of 'consent' is now in the separate section -Section 128A.

128A Allowing sexual activity does not amount to consent in some circumstances

- (1) A person does not consent to sexual activity just because he or she does not protest or offer physical resistance to the activity.
- (2) A person does not consent to sexual activity if he or she allows the activity because of—
 - (a) force applied to him or her or some other person; or
 - (b) the threat (express or implied) of the application of force to him or her or some other person;or
 - (c) the fear of the application of force to him or her or some other person.
- (3) A person does not consent to sexual activity if the activity occurs while he or she is asleep or unconscious.
- (4) A person does not consent to sexual activity if the activity occurs while he or she is so affected by alcohol or some other drug that he or she cannot consent or refuse to consent to the activity.
- (5) A person does not consent to sexual activity if the activity occurs while he or she is affected by an intellectual, mental, or physical condition or impairment of such a nature and degree that he or she cannot consent or refuse to consent to the activity.
- (6) One person does not consent to sexual activity with another person if he or she allows the sexual activity because he or she is mistaken about who the other person is.
- (7) A person does not consent to an act of sexual activity if he or she allows the act because he or she is mistaken about its nature and quality.
- (8) This section does not limit the circumstances in which a person does not consent to sexual activity.
- (9) For the purposes of this section,—

allows - includes acquiesces in, submits to, participates in, and undertakes
sexual activity, in relation to a person, means—

 - (a) sexual connection with the person; or
 - (b) the doing on the person of an indecent act that, without the person's consent, would be an indecent assault of the person.

Comment This description of consent in this section encompasses the 'date rape' situation at section 128A(4) that a person does not consent to sexual activity if they are so affected by alcohol or drugs that they cannot consent.

128B Sexual Violation

- (1) Every one who commits sexual violation is liable to imprisonment for a term not exceeding 20 years.
- (2) A person convicted of sexual violation must be sentenced to imprisonment unless, having regard to the matters stated in subsection (3), the court thinks that the person should not be sentenced to imprisonment.
- (3) The matters are—
 - (a) the particular circumstances of the person convicted; and
 - (b) the particular circumstances of the offence, including the nature of the conduct constituting it.

129 Attempted sexual violation and assault with intent to commit sexual violation

- (1) Every one who attempts to commit sexual violation is liable to imprisonment for a term not exceeding 10 years.
- (2) Every one who assaults another person with intent to commit sexual violation of the other person is liable to imprisonment for a term not exceeding 10 years.

129A Sexual conduct with consent induced by certain threats

- (1) Every one who has sexual connection with another person knowing that the other person has been induced to consent to the connection by threat is liable to imprisonment for a term not exceeding 14 years.
- (2) Every one who does an indecent act on another person knowing that the other person has been induced to consent to the act by threat is liable to imprisonment for a term not exceeding 5 years.
- (3) For the purposes of subsection (1), a person who has sexual connection with another person knows that the other person has been induced to consent to the sexual connection by threat if (and only if) he or she knows that the other person has been induced to consent to the sexual connection by an express or implied threat of a kind described in subsection (5).
- (4) For the purposes of subsection (2),
 - (a) a person who does an indecent act on another person knows that the other person has been induced to consent to the act by threat if (and only if) he or she knows that the other person has been induced to consent to the act by an express or implied threat of a kind described in subsection (5); and
 - (b) a person is induced to consent to an indecent act whether---

(i) he or she is induced to consent to the doing of an indecent act with or on him or her;
or

(ii) he or she is induced to consent to do an indecent act himself or herself.

(5) The kinds of threat referred to in subsections (3) and (4)(a) are---

(a) a threat that the person making the threat or some other person will commit an offence that---

(i) is punishable by imprisonment; but

(ii) does not involve the actual or threatened application of force to any person; and

(b) a threat that the person making the threat or some other person will make an accusation or disclosure (whether true or false) about misconduct by any person (whether living or dead) that is likely to damage seriously the reputation of the person against or about whom the accusation or disclosure is made; and

(c) a threat that the person making the threat will make improper use, to the detriment of the person consenting, of a power or authority arising out of---

(i) an occupational or vocational position held by the person making the threat; or

(ii) a commercial relationship existing between the person making the threat and the person consenting.

130 Incest

(1) Sexual connection is incest if--

(a) it is between 2 people whose relationship is that of parent and child, siblings, half-siblings, or grandparent and grandchild; and

(b) the person charged knows of the relationship.

(2) Every one of or over the age of 16 years who commits incest is liable to imprisonment for a term not exceeding 10 years.

Comment This offence has changed, from 'sexual intercourse' to 'sexual connection' this allows for same-sex offending to be prosecuted. The term 'half-siblings' is included in the place of the previous "of half blood".

131 Sexual conduct with dependent family member

(1) Every one is liable to imprisonment for a term not exceeding 7 years who has sexual connection with a dependent family member under the age of 18 years.

(2) Every one is liable to imprisonment for a term not exceeding 7 years who attempts to have sexual connection with a dependent family member under the age of 18 years.

(3) Every one is liable to imprisonment for a term not exceeding 3 years who does an indecent act on a dependent family member under the age of 18 years.

(4) The dependent family member cannot be charged as a party to the offence.

(5) It is not a defence to a charge under this section that the dependent family member consented.

Comment This is a new provision, in place of the old offence of 'Sexual intercourse with girl under care and protection'. It covers a broader range of offending and as it is gender neutral allows for both female and male victims up to the age of 18.

131A Dependent family member defined

Abbreviated

Comment This section sets out who is a dependent family member. This new provision provides for a wide range of domestic relationships. The section emphasises that one of the aims for the amended legislation was to ensure that it was broad enough to cover all victims who are, by the nature of their relationship to the offender, - vulnerable.

131B Meeting young person under 16 following sexual grooming, etc

(1) Every person is liable to a term not exceeding 7 years if,-

(a) having met or communicated with a person under the age of 16 years (the **young person**) on an earlier occasion, he or she takes one of the following actions:

(i) intentionally meets the young person:

(ii) travels with the intention of meeting the young person:

(iii) arranges for or persuades the young person to travel with the intention of meeting him

or her; and

(b) at the time of taking the action, he or she intends-

(i) to take in respect of the young person an action that, if taken in New Zealand, would be an offence against this Part, or against any of paragraphs (a)(i), (d)(i), (e)(i), (f)(i), of section 98AA(1); or

(ii) that the young person should do on him or her an act the doing of which would, if he or she permitted it to be done in New Zealand, be an offence against this Part on his or her part.

(2) It is a defence to a charge under subsection (1) if the person charged proves that, -

(a) before the time he or she took the action concerned, he or she had taken reasonable steps to find out whether the young person was of or over the age of 16 years; and

(b) at the time he or she took the action concerned, he or she believed on reasonable grounds that the young person was of or over the age of 16 years.

Comment This is the new 'sexual grooming' offence. It applies to people who take any of the actions in subsection (1)(a) with the intention of committing an offence against this Part of the Crimes Act 1961. Note: Section 98AA has not yet come into force.

132 Sexual conduct with child under 12

(1) Every one who has sexual connection with a child is liable to imprisonment for a term not exceeding 14 years.

(2) Every one who attempts to have sexual connection with a child is liable to imprisonment for a term not exceeding 10 years.

(3) Every one who does an indecent act on a child is liable to imprisonment for a term not exceeding 10 years.

(4) It is not a defence to a charge under this section that the person charged believed that the child was of or over the age of 12 years.

(5) It is not a defence to a charge under this section that the child consented.

(6) In this section, -

(a) child means a person under the age of 12 years; and

(b) doing an indecent act on a child includes indecently assaulting the child.

Comment Under the new Act sexual offences against children under 12 are now contained in this one section and the offence provisions are gender neutral.

134 Sexual conduct with young person under 16

(1) Every one who has sexual connection with a young person is liable to imprisonment for a term not exceeding 10 years.

(2) Every one who attempts to have sexual connection with a young person is liable to imprisonment for a term not exceeding 10 years.

(3) Every one who does an indecent act on a young person is liable to imprisonment for a term not exceeding 7 years.

(4) No person can be convicted of a charge under this section if he or she was married to the young person concerned at the time of the sexual connection or indecent act concerned.

(5) The young person in respect of whom an offence against this section was committed cannot be charged as a party to the offence if the person who committed the offence was of or over the age of 16 years when the offence was committed.

(6) In this section, -

(a) young person means a person under the age of 16 years; and

(b) doing an indecent act on a young person includes indecently assaulting the young person.

Comment This offence is also gender neutral, the new section is broader to allow for the prosecution where the offender is female and the victim is a male aged between 12 and 16. Where both parties are aged, by way of example, 15 years, then they both commit the offence. However, for example, where one of the parties is 15 and the other is 16, only the 16 years old can be charged. Under this new section the penalty increases to 10 years for sexual connection or attempted sexual connection with a young person.

134A Defence to charge under section 134

(1) It is a defence to a charge under section 134 if the person charged proves that -

(a) before the time of the act concerned, he or she had taken reasonable steps to find out whether the young person concerned was of or over the age of 16 years; and

(b) at the time of the act concerned, he or she believed on reasonable grounds that the young person was of or over the age of 16; and

(c) the young person consented

(2) Except to the extent provided in subsection (1)-

- (a) it is not a defence to a charge under section 134 that the young person concerned consented; and
- (b) it is no a defence to a charge under section 134 that the person charged believed that the young person concerned was of or over the age of 16 years.

135 Indecent assault

Every one is liable to imprisonment for a term not exceeding 7 years who indecently assaults another person.

138 Sexual exploitation of person with significant impairment

(1) Every one is liable to imprisonment for a term not exceeding 10 years who has exploitative sexual connection with a person with a significant impairment.

(2) Every one is liable to imprisonment for a term not exceeding 10 years who attempts to have exploitative sexual connection with a person with a significant impairment.

(3) For the purposes of subsections (1) and (2), a person has exploitative sexual connection with a person with a significant impairment (the impaired person) if [he or she]-

(a) has sexual connection with the impaired person knowing that the impaired person is a person with a significant impairment; and

(b) has obtained the impaired person's acquiescence in, submission to, participation in, or undertaking of the connection by taking advantage of the impairment.

(4) Every one is liable to imprisonment for a term not exceeding 5 years who exploitatively does an indecent act on a person with a significant impairment.

(5) For the purposes of subsection (4), a person exploitatively does an indecent act on a person with a significant impairment (the impaired person) if he or she-

(a) does an indecent act on the impaired person knowing that the impaired person is a person with a significant impairment; and

(b) has obtained the impaired person's acquiescence in, submission to, participation in, or undertaking of the doing of the act by taking advantage of the impairment.

(6) For the purposes of this section, a significant impairment is an intellectual, mental, or physical condition or impairment (or a combination of 2 or more intellectual, mental, or physical conditions or impairments) that affects a person to such an extent that it significantly impairs the person's capacity-

(a) to understand the nature of sexual conduct; or

(b) to understand the nature of decisions about sexual conduct; or

(c) to foresee the consequences of decisions about sexual conduct; or

(d) to communicate decisions about sexual conduct.

Comment This section is also framed in gender neutral terms and replaces the previous "Sexual intercourse with severely subnormal woman or girl". This new section covers a broader range of offending.

208 Abduction for purposes of marriage or sexual connection

Abbreviated

209 Kidnapping

Every one is liable to imprisonment for a term not exceeding 14 years who unlawfully takes away or detains a person without his or her consent or with his or her consent obtained by fraud or duress -

(a) with intent to hold him or her for ransom or to service; or

(b) with intent to cause him or her to be confined or imprisoned; or

(c) with intent to cause him or her to be sent or taken out of New Zealand

209A Young person under 16 cannot consent to being taken away or detained

For the purposes of section 208 and 209, a person under the age of 16 years cannot consent to being taken away or detained.

210 Abduction of young person under 16

(1) Every one is liable to imprisonment for a term not exceeding 7 years who, with intent to deprive a parent or guardian or other person having the lawful care or charge of a young person of the possession of the young person, unlawfully takes or entices away or detains the young person.

(2) Every one is liable to imprisonment for a term not exceeding 7 years who, receives a young person, knowing that he or she has been unlawfully taken or enticed away or detained with intent to deprive a parent

or guardian or other person having the lawful care or charge of a young person of him or her of the possession of him or her.

(3) For the purposes of subsections (1) and (2), -

(a) it is immaterial whether the young person consents, or is taken or goes or is received at his or her own suggestion; and

(b) it is immaterial whether the offender believes the young person to be of or over the age of 16

(4) In this section **young person** means a person under the age of 16 years.

210A People claiming in good faith right to possession of young person under 16.

A person who claims in good faith a right to the possession of a young person under the age of 16 years cannot be convicted of an offence against section 209 or section 210 because he or she gets possession of the young person.

Appendix Two

Police Child Abuse Statistics Project Report Form

Tier 1

1. **Project ID** 01
2. **Police File Number** 02
3. **File category:**
 1. False allegation 2. Partial investigation 3. Full investigation/evidence insufficient
 4. Prosecuted 5. Outcome yet to be determined 6. Unable to locate file ☐ 03

Notes _____

4. **Victim's gender** 1. Male 2. Female ☐ 04
5. **Victim's ethnicity** 1. Euro 2. Maori 3. PI 4. Asian 5. Other 9. Not recorded ☐ 05
6. **Victim's age at time of first offence (in years)** 06
7. **Victim's age at time of last offence (in years)** 07
8. **Victim's age at time of reporting (in years)** 08
9. **Alleged offender's gender** 1. Male 2. Female ☐ 09
10. **Alleged offender's ethnicity** 1. Euro 2. Maori 3. PI 4. Asian 5. Other 9. No info ☐ 10
11. **Alleged offender's age at time of first offence (in years)** 11
12. **Alleged offender's age at time of reporting (in years)** 12

Notes: Alleged offender's occupation (at investigation) _____

Notes: Chain of disclosure _____

13. **Number of alleged incidents** 1. 1 incident 2. 2 incidents 3. more than two ☐ 13
14. **Duration of the alleged offending (weeks)** 14
15. **Victim health characteristics** 0. None (confirmed) 1. ADHD 2. Sensory impairment 3. M.R. 4. Depression 5. Other 9. No information ☐ 15

Notes _____

16. **Victim complained of being previously sexually abused** 0. No 1. yes ☐ 16

Note _____

17. **History of false allegations by victim** 0. No 1. Yes

☐ 17

Note _____

18. **Living arrangements of victim at time of offending**

1. Two bio parents 2. Bio mum only 3. Bio father only 4. Shared custody
5. Bio mum & step dad 6. Bio father & step mum 7. Foster/CYFS care 8. Other

☐ 18

Notes _____

19. **Relationship between victim and alleged offender** 1. Intrafamily. 2. Extrafamily

☐ 19

20. **Intra-familial relationship**

0. N/A. 1. Stepfather/Mother's partner 2. Uncle 3. Father 4. Brother 5. Cousin
6. Grandparent 7. Step grandparent 8. Other 9. No info

☐ 20

Notes _____

21. **Extra-familial relationship** 0. N/A 1. Family friend 2. Babysitter 3. Neighbor
4. Similar age peer 5. Foster sibling 6. Caregiver 7. Stranger 8. Other

☐ 21

Notes _____

22. **Reason for referral** 1. Child initiated disclosure 2. Physical signs 3. Behavioral/
Developmental 4. Caregiver concerns 5. Contact with known offender 6 other

☐ 22

Notes _____

23. **Evidential interview completed?**

1. Yes 2. No – too young to be interviewed 3. No consent given for interview
4. No – child refused to be interviewed 5 No – no reason given

☐ 23

24. **Outcome of ev interview** 1. Clear disclosure & TPL test 2. Clear disclosure but
failed TLP test. 3. Did not disclose 4. Retracted 5. Admitted false allegation
6. Failed TLP test 7. Result unclear

☐ 24

25. **Child statement taken** 0. No 1. Yes

☐ 25

26. **Outcome of statement** 1. Clear disclosure 2. Did not disclose 3. Retracted
4. Admitted false allegation 5. Unclear

☐ 26

Reasons for insufficient evidence for Court process

27. Child too young 0. No 1. Yes

☐ 27

28. Child unable to meet EVI (T/L/P) 0. No 1. Yes

☐ 28

29. Child too vulnerable for court system 0. No 1. Yes

☐ 29

30 Child retracted important details 0. No 1. Yes

☐ 30

31 Inconsistency of child's evidence 0. No 1. Yes

☐ 31

- | | | | |
|--|--------------|--------------------------|----|
| 32. Extensive agency intervention | 0. No 1. Yes | <input type="checkbox"/> | 32 |
| 33. Family against Court procedure | 0. No 1. Yes | <input type="checkbox"/> | 33 |
| 34. Family not believing/supportive | 0. No 1. Yes | <input type="checkbox"/> | 34 |
| 35. Not best for all to prosecute | 0. No 1. Yes | <input type="checkbox"/> | 35 |
| 36. Difficult to gain successful prosecution | 0. No 1. Yes | <input type="checkbox"/> | 36 |
| 37. Contaminated disclosure process | 0. No 1. Yes | <input type="checkbox"/> | 37 |
| 38. Alleged offender denies | 0. No 1. Yes | <input type="checkbox"/> | 38 |

Notes _____

Tier 2

Criminal history of the alleged offender

- | | | | |
|-------------------------------|--------------|--------------------------|----|
| 39. Criminal history | 0. No 1. Yes | <input type="checkbox"/> | 39 |
| 40. Adult sex offence history | 0. No 1. Yes | <input type="checkbox"/> | 40 |
| 41. Child sex-offence history | 0. No 1. Yes | <input type="checkbox"/> | 41 |

Types of prior offences

- | | | | |
|---|--------------|--------------------------|----|
| 42. Extensive criminal history | 0. No 1. Yes | <input type="checkbox"/> | 42 |
| 43. Domestic violence history | 0. No 1. Yes | <input type="checkbox"/> | 43 |
| 44. Prior offences against person | 0. No 1. Yes | <input type="checkbox"/> | 44 |
| 45. Prior offences against property | 0. No 1. Yes | <input type="checkbox"/> | 45 |
| 46. Prior dishonesty offences | 0. No 1. Yes | <input type="checkbox"/> | 46 |
| 47. Prior drug offences | 0. No 1. Yes | <input type="checkbox"/> | 47 |
| 48. Prior serious traffic offences | 0. No 1. Yes | <input type="checkbox"/> | 48 |
| 49. Prior fraud offences | 0. No 1. Yes | <input type="checkbox"/> | 49 |
| 50. Total number of adult-sex convictions to date | | <input type="text"/> | 50 |
| 51. Total number of child sex convictions to date | | <input type="text"/> | 51 |
| 52. Total number of all convictions to date | | <input type="text"/> | 52 |

53. **Previous allegation of child abuse (not prosecuted)** 0. None 1. Yes 9. Not known ☐ 53

Notes _____

54 **Strategies used to silent victim**

0. None 1. Get child to promise 2. Tell child it is their fault 3. Threat parent will be harmed 4. Offender will be in trouble 5. Threat child will be in trouble 6. Money 7. Gifts 8. Other 9. Not known ☐ 54

Notes _____

55. **Witnesses** 0. No witnesses 1. Sibling to victim 2. Friend of victim 3. Child who is a relative to victim 4. Child neighbor 5. Adult 6. Other 9. Not known ☐ 55

Notes _____

56. **First person told** 1. Friend 2. Biological mother 3. Sister 4. Cousin, similar age 5. Family friend 6. Aunt 7. Teacher or counsellor 8. Other 9. Not known ☐ 56

Notes _____

57. **Time lapse from first alleged offense to initial disclosure (in weeks)** 57

58. **Time lapse between first disclosure and reporting to Police (in weeks)** 58

59. **Were the Police the first authority to be notified?** 0. No 1. Yes ☐ 59

60. **Did the notification come through CYFS?** 0. No 1. Yes ☐ 60

61. **Delay between notification to agency and referral on the Police (in weeks)** 61

Notes re 50 & 61 _____

62. **Victim documented abuse** 1. No 2. Near offending time 3. Near reporting time 9. Not known (#2 takes precedence over #3) ☐ 62

Notes _____

63. **Was the allegation believed by the primary non-offending caregiver?** 1. No 2. Yes at time of disclosure 3. Yes by end of investigation 9. Not known (#2 takes precedence over #3) ☐ 63

Notes _____

64. **Most common location of alleged offending** 1. Child's house 2. Offender's house 3. Both houses 4. In a car 5. other ☐ 64

Notes _____

Type of offending alleged

- | | | |
|------------------------------|--|-----------------------------|
| 65. Indecent assault | 0. No 1. Attempted 2 Yes once 3. Yes more than one | <input type="checkbox"/> 65 |
| 66. Genitalia/penile | 0. No 1. Attempted 2 Yes once 3. Yes more than one | <input type="checkbox"/> 66 |
| 67. Genitalia/digital | 0. No 1. Attempted 2 Yes once 3. Yes more than one | <input type="checkbox"/> 67 |
| 68. Genitalia/object | 0. No 1. Attempted 2 Yes once 3. Yes more than one | <input type="checkbox"/> 68 |
| 69. Mouth/penis | 0. No 1. Attempted 2 Yes once 3. Yes more than one | <input type="checkbox"/> 69 |
| 70. Mouth/vagina | 0. No 1. Attempted 2 Yes once 3. Yes more than one | <input type="checkbox"/> 70 |
| 71. Anal/penile | 0. No 1. Attempted 2 Yes once 3. Yes more than one | <input type="checkbox"/> 71 |
| 72. Anal/digital | 0. No 1. Attempted 2 Yes once 3. Yes more than one | <input type="checkbox"/> 72 |
| 73. Anal/objects | 0. No 1. Attempted 2 Yes once 3. Yes more than one | <input type="checkbox"/> 73 |

Notes _____

- | | | |
|--|---|-----------------------------|
| 74. Medical exam completed? | 0. No 1. Yes | <input type="checkbox"/> 74 |
| 75. Reason for no medical | 1. Victim refused 2. Caregiver refused 3. Delay too great | <input type="checkbox"/> 75 |
| 76. Medical evidence? | 0. No 1. Yes | <input type="checkbox"/> 76 |
| 77. STD evidence | 0. No 1. Yes | <input type="checkbox"/> 77 |
| 78. Sperm located | 0. No 1. Yes | <input type="checkbox"/> 78 |
| 79. Other forensic evidence present | 0. No 1. Yes | <input type="checkbox"/> 79 |

Notes _____

- | | | |
|--|--|-----------------------------|
| 80. Pornography located | 0. Searched – none. 1. No search. 2. Yes- child 3. Yes – child & adult 4. Yes – adult | <input type="checkbox"/> 80 |
| 81. Did the alleged offender admit? | 1. No 2. Not interviewed 3. Yes, prior to arrest
4. Yes, after arrest, prior to court case 5. Yes, prior court case and to a lesser charge
6. Yes, during negotiations regarding evidence before the court | <input type="checkbox"/> 81 |

Initial outcome after investigation (16 or under)

- | | | |
|---|---|-----------------------------|
| 82. Charged? | 1. No 2. Yes - in Youth Court 3. Yes - in criminal court
4. Warned | <input type="checkbox"/> 82 |
| 83. Not criminally liable (under 12 yrs) | 0. No 1. Yes | <input type="checkbox"/> 83 |

84. **Family Group conference** 0. No 1. Yes ☐ 84
85. **Family intervention** 0. No 1. Yes ☐ 85
86. **Professional counseling** 0. No 1. Yes ☐ 86
87. **STOP programme** 0. No 1. Yes ☐ 87
88. **CYFS follow up** 0. No 1. Yes ☐ 88
89. **Taken into CYFS care** 0. No 1. Yes ☐ 89

Notes _____

Initial outcome after investigation (17 or over)

90. Initial outcome after investigation

0. Not fully investigated - insufficient. evid. 1. Suicide 2. Not charged - insufficient evid. 3. Not charged – family didn't want to proceed 4. Child retracted details 5. Referred to STOP or other programme 6. Warned 7. Charged 8. Other outcome

☐ 90

Notes _____

Tier 3

Disposition – (16 or under)

91. Criminal charges laid by Police (16 or under)

1. Suicide 2. Charges withdrawn 3. Victim or family didn't want to proceed 4. Dismissed at Depositions 5. Change of plea prior to hearing 6. Case heard in Court 7. Other outcome

☐ 91

Notes _____

92. Result of prosecution (16 or under)

1. Found not guilty 2. Charges dismissed 3. Charges withdrawn 4. Stay of proceedings 5. Hung jury 6. Re-trial ordered 7. Found guilty 8. Other outcome

☐ 92

Notes _____

Disposition – (17 or over)

93. Criminal charges laid by Police (17 or over)

1. Suicide 2. Charges withdrawn 3. Victim didn't want to proceed 4. Dismissed at Depositions 5. Change of plea prior to hearing 6. Case heard in Court 7. Other outcome

☐ 93

Notes _____

94. Result of prosecution (17 or over)

1. Found not guilty 2. Charges dismissed 3. Charges withdrawn 4. Stay of proceedings 5. Hung jury 6. Re-trial ordered 7. Found guilty 8. Other outcome

☐ 94

Notes _____

Sentence**95. Imprisonment**

0. No 1. Yes

☐ 95
96. Length of imprisonment first mentioned by judge (in months)
 96
97. Time taken off for guilty, no convictions etc. (in months)
 97
98. Actual prison term (in months)
 98
99. Preventative detention

0. No 1. Yes

☐ 99
100 Suspended or supervised sentence

0. No 1. Yes

☐ 100
101 Restorative justice

0. No 1. Yes

☐ 101
102 Counselling

0. No 1. Yes

☐ 102
103 STOP or other Programme

0. No 1. Yes

☐ 103
104 Fine

0. No 1. Yes

☐ 104

Notes _____